SENATE—*Tuesday, June 4, 1991*

(Legislative day of Monday, June 3, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133:1.

Eternal God of peace and love, we celebrate our unity as a Nation—E Pluribus Unum— but we also celebrate our diversity. We thank Thee for unity which prevents diversity from becoming anarchy and for diversity which prevents unity from becoming uniformity.

Mighty God, here are 100 of the most powerful people in the world. Grant that the power each Senator holds be united with the power of the other 99 so that, like a great symphony, they will make beautiful music which will bless the world. Help us never forget, "United we stand, divided we fall." Forbid, Lord, that differences be so divisive that the Senate be polarized and paralyzed, and the whole become less than the sum of its parts.

In these desperately critical days, economically, socially, and internationally, may we never allow division to emasculate the greatness and power of our Nation and forfeit the leadership which has so clearly identified us in the world.

We ask this in the name of Him whose leadership was servanthood. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC., June 4, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

WELCOME BACK REVEREND HALVERSON

Mr. MITCHELL. Mr. President, I know all Senators join me in welcoming back to the Senate our beloved Chaplain, Reverend Halverson. We are pleased that he has recovered, and we look forward to continuing to work with him and to benefit from his guidance in prayer.

SCHEDULE

Mr. MITCHELL. Mr. President, there will be a period for morning business today not to extend beyond 11 a.m., with Senators permitted to speak therein. The time between 10 a.m. and 11 a.m. will be under the control of the majority leader or his designee.

At 11 a.m. this morning the Senate will resume consideration of S. 173, the modified final judgment bill.

From 12:30 p.m. until 2:15 p.m. today, the Senate will stand in recess in order to accommodate the respective party conferences.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 1198 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEVIN. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

TRADE RELATIONS WITH THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOYNIHAN. Mr. President, this morning the distinguished majority leader and others will be speaking about the question of our trade relations with the People's Republic of China. Specifically to note that China now enjoys most-favored-nation treatment, in contradistinction to countries such as the Soviet Union. I have joined the majority leader and other Senators in legislation that would condition most-favored-nation treatment upon the President's certifying that certain minimum standards of international legality and human rights are maintained by the Government of the People's Republic.

I will take just a moment of the Senate's time to mention the question of Tibet, which is as far away as a land could be, and which has somehow disappeared from time to time, at least from the memory of the international community. Tibet was an independent nation that was invaded and conquered and is now occupied by the People's Republic of China. The invasion took place when our own concerns were very much distracted by the invasion of South Korea by North Korea, later joined by the People's Republic. But since 1950, that has been the reality. The world has not accepted it but has never sufficiently protested it.

There is no question that Tibet was an independent nation prior to that event. It had been recognized by the countries around it, by Bhutan, a Buddhist country to the south; by Nepal; by Mongolia to the north. Great Britain, through the British Government in India, recognized Tibet and czarist Russia did. The United States sent emissaries there in 1942 at a time when we were allied with China in the war against Japan, and they were specifically received by Foreign Office officials—like our State Department officials—as representatives of a legal entity. Tibet was a country that could have joined the United Nations, a country that ought to have done, and per-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

haps His Holiness the Dalai Lama has had occasion to comment on that.

Of note here is the fact that the one great violation of international standards in the world today with respect to the occupation by one sovereign nation of another is China's occupation of Tibet. It is the largest occupation in land area, and most grotesque and savage in terms of its genocide of the Tibetan people, their replacement by Han Chinese and the exile of the Government of Tibet to India. Yet, the People's Republic denies the existence of the issue. It seems to me appropriate that the United States Senate should insist that, if the Chinese Government chooses to deny its occupation of a soverign nation, we choose to affirm and deplore it.

Mr. President, I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 1199 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order the remaining time between now and 11 a.m. is under the control of the majority leader.

The Chair recognizes the majority leader, Senator MITCHELL.

ANNIVERSARY OF TIANANMEN SQUARE MASSACRE

Mr. MITCHELL. Mr. President, 2 years ago today, hundreds of unarmed Chinese students and workers, men and women, were brutally massacred on the orders of their own Government, because their peaceful demonstration of dissent threatened the power and privileges of an aged Communist elite.

The Western World watched transfixed as the students raised the statue of the Goddess of Liberty in Tiananmen Square to symbolize their hope for personal freedom and a better life.

The world watched in disbelief that turned to horror as army troops, tanks, and armed soldiers moved against a defenseless people, as it became clear that the ruling regime of China would not be deterred from suppression.

A month after the massacre, after vowing to the American people that the Chinese Government would pay a price for its repression, President Bush sent a secret high-level delegation to deal with that Communist regime.

Half a year later, President Bush vetoed a bill to protect the Chinese students in this country against forced repatriation. He said he would issue an Executive order which would have the same effect. But he did not.

Only under the pressure of public opinion did he finally agree to give these innocent people the political refuge to which their cause entitled them from the beginning.

And Christmas 1989, the season of peace, the year of the massacre itself, saw the President, high-level appointees toasting the authors of the Tiananmen Square massacre, on behalf of our Government.

Meanwhile, then and ever since then, the Communist regime in China was hunting down, imprisoning, torturing, and executing people whose only crime was that they want democracy.

The American people do not favor support of the current regime in China. The Congress is on record as voting overwhelmingly against that regime's repression. The world community condemns the renewal of political indoctrination in China, the new limits on overseas study, the increased surveillance of people and the renewed danger to dissenters.

The whole civilized world recoiled at the horror the Chinese regime unleashed.

A year ago today, Chinese students risked death or imprisonment to honor the martyrs of the prodemocracy movement by laying wreaths and trying to assemble at the site. This year, the cordon of troops around the square has prevented even those signs, those modest signs of respect for the dead and wounded of the protest movement.

Last year, scarcely a week before the anniversary of the massacre, President Bush requested renewal of most-favored-nation trade status for China.

Last year, the President said renewal of that trade status for China was the best way to bring about a transformation of Chinese Government policy and practice; the best way to support the goals for which young men and women gave their lives on the pavement of Tiananmen Square.

Now another year has gone by.

The martyrs of Tiananmen are as dead today as they were a year ago. And dead along with them is the hope of transformation in China.

Nothing has changed. The regime remains intransigent. The protesters still at large are still subject to imprisonment, torture, inhuman terms of confinement and deprivation of all rights by what can only be called kangaroo courts.

Any Chinese man or woman, regardless of age, suspected of sympathy for the dissenters is subject to arbitrary arrest, detainment, trial and imprisonment, not for things actually done, but for things the person believes others had the right to do.

The year-long renewal of most-favored-nation trade status for China has brought the world precisely nothing in the way of reform of the Chinese regime. It has brought the United States precisely nothing in the way of an improved world climate for peace. It has brought the people of Hong Kong precisely nothing in the way of assurance about their future under Chinese rule.

The policy of encouraging China's Government to take the minimal steps that are the responsibility of every government has failed in each and every particular of its goals.

It has not encouraged the Chinese regime to respect the human rights of any Chinese citizen;

It has not persuaded the Chinese Government to become a responsible party in the world effort to control the transfer of arms and arms technology;

It has not emboldened the Chinese Government to broaden its experiments with a market economy beyond one province;

It has not changed the Chinese Government's genocidal treatment of the people of Tibet;

It has not made the Chinese Government respect the elemental rules of fair trade even in its trade relationship with the United States.

When a policy designed to effect change in all these ways fails to effect change in even one of them, the adherents of that policy must join all others in realizing that it is a failed policy.

Yet once again today, on the second anniversary of the Tiananmen massacre, with hundreds if not thousands of political prisoners in China, with repression across that society the order of the day, with violence against the people of Tibet unabated, with arms sales proliferating undeterred and with trade policies that are a slap in the face to American companies seeking to do business abroad honestly—with all these indisputable and documented facts in place, President Bush is again proposing to extend favored trade status to China, without conditions.

Not since the worst days of the Soviet gulag has this Nation faced as clear a moral choice in foreign policy. It is a choice clear on the grounds of national economic interest. It is a choice clear on the grounds of national moral interest.

Yet the President suggests that American policy—not the motives or actions of the Chinese Communists themselves—but it is American policy and American policymakers who want to isolate China.

I reject, as all Americans reject, the idea that it is the policy of our Government which has ever forced any government anywhere in the world to turn guns on its own citizens.

I reject the idea that our Government's adherence to standards of de-

cency in international affairs offers any kind of excuse to any tyrant, any dictator anywhere, east or west, to massacre unarmed dissidents.

I reject the idea that it is American values that have to be sacrificed to the whims of the authors of the Tiananmen Square massacre.

I reject the idea that our Nation, the standard-bearer of democracy and human rights in the world today, must suspend our standards and deny our ideals for the sake of accommodating a group of Communist tyrants who have outlived their own ideology but do not wish to give up power and the privileges that go with it.

The Chinese Government's consistent complicity in the pirating of American software has caused enormous financial losses for America's business community. The Chinese Government's policy of barring access to Chinese markets while exploiting its own access to American markets has given the Chinese regime a $10 billion trade surplus at our expense.

President Bush does not talk about cultural genocide in Tibet. He does not talk about Chinese arming of the genocidal Khmer Rouge in Cambodia. He does not talk about repression in China.

Instead, he talks about the morality of not isolating China, as though something we had done were the cause of China's isolation, rather than what the Chinese Government has done.

The President speaks as though upholding the status quo in China is the only moral thing to do.

With all due respect, he is mistaken. There is nothing moral in upholding power that is misused.

There is nothing moral in abandoning those who look to us for help.

The world has changed in the past 5 years in ways that are upsetting established governments all over the globe. Governments which have neglected the interests of their own people have fallen in Africa, in Eastern Europe, in Central America.

Our Nation, our Government, our America should be in the forefront of those welcoming the emergence of democratic movements, a shift toward accountability by all governments, everywhere. The United States does well where freedom does well. America succeeds where democracy succeeds.

It is time to treat China as we treat all other nations.

I believe we in the Congress can best serve democracy and the best interests of the United States by refusing to forget what happened at Tiananmen Square and by insisting that the President change his failed policy toward the Communist tyrants of China.

Mr. President, I understand from the Chair the control of the time is from the majority leader.

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. I yield such time as the Senator from Massachusetts may require, and then the Senator from Illinois, 5 minutes, and then the Senator from Arizona such time as he may require.

Does the Senator from Illinois wish to be provided as much time as he requires?

Mr. DIXON. I think 5 minutes will be adequate, but I will ask for a minute or 2 if necessary.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

ANNIVERSARY OF THE TIANANMEN CRACKDOWN

Mr. KENNEDY. Mr. President, I want to commend our majority leader for, really, an excellent statement and a principled stand. This has been his position since the time of that terrible tragedy in Tiananmen Square some 2 years ago. I think this morning in the Senate he has, as on other occasions on our national television, I think, made the strongest possible case for insisting that any most-favored-nation provisions would be conditioned upon important progress in addressing these needs.

I just ask the majority leader if he is familiar with the statement of the Prime Minister, Premier Lee Pung, who only at the time of the anniversary, just recently, insisted that the military crackdown had been an appropriate response to the peaceful student protest, and the Chinese Government would do it again if they were faced with a similar demonstration? I think he has made the case so well in covering a wide variety of areas. But the attitude of the current Chinese Government regime would certainly appear they would be prepared to do it again today if he is not troubled by that attitude as well.

Mr. President, as has been pointed out, 2 years ago today the Government of the People's Republic of China initiated a brutal crackdown on the courageous prodemocracy students demonstrating in Tiananmen Square. By the end of the week, hundreds of peaceful demonstrators had been ruthlessly slaughtered and thousands more had been detained by government authorities.

Now, President Bush has formally announced his intention to renew most-favored-nation trading status with China. His decision, he claims, is the right thing to do with respect to China.

Unfortunately, the facts indicate otherwise. Since the Tiananmen Square massacre, the Chinese Government has intensified its repression of prodemocracy forces.

As this year's anniversary of the Tiananmen massacre approached, the Premier of China, Lee Pung, commented upon that great tragedy. He harshly insisted that the military crackdown had been an appropriate response to the peaceful student protest and that the Chinese Government would do it again if similar demonstrations were attempted in the future.

Today, Tiananmen Square is lined with armed guards to repress even the smallest demonstration of sympathy for the memory of those who died there 2 years ago.

To renew China's MFN status in the face of this brutality would make a mockery of the lives lost at Tiananmen Square and undermine whatever forces of democracy are still struggling for a new China.

President Bush's policy toward China makes no sense. Immediately following the Tiananmen crackdown, he promised to suspend all political-level exchanges with China. Yet within a month, he dispatched National Security Adviser Brent Scowcroft to Beijing—a trip that was kept secret from the Congress and the American people and was only acknowledged after it was reported by the press in December.

When Congress sought to extend the visas of Chinese students living in the United States, President Bush vetoed the legislation and said he would extend the visas by Executive order.

The White House subsequently denied that this promise had been made before finally capitulating and extending the visas.

The President also waived sanctions suspending the export of satellites, the sale of aircraft, and the delay of international loans to China.

In response to these gestures, the Chinese Government detained up to 30,000 prodemocracy dissidents, executed an undisclosed number of these brave individuals, sentenced more than 800 to prison, and brought new charges against individuals who supported the democracy movement.

President Bush then sent Brent Scowcroft on another secret visit to Beijing. He vetoed congressional sanctions regarding OPIC, trade assistance, and nuclear cooperation.

In response, the Chinese Government extended its crackdown on prodemocracy advocates, purged moderate elements from the Government, tightened restrictions on the foreign press, and harassed business entities and students living abroad who supported the democracy movement.

Now, the President wants to renew China's MFN status—thereby relinquishing our Government's best weapon in the struggle to encourage the Chinese leadership to change its policies. In light of Beijing's prior responses to his overtures, the President's unconditional renewal of MFN would only signify our country's acquiescence to further repression.

China is totally undeserving of MFN status on a score of issues, ranging from human rights to trade practices to nuclear proliferation.

If America is to champion the forces of freedom, it must take a stand against China's repressive regime.

By granting China MFN status the White House would only reinforce what the State Department itself calls an authoritarian one-party state ruled by the Chinese Communist Party.

It is time for the United States to take a more active role in supporting the prodemocracy forces in China and the long-suffering Chinese people.

The most important step we can take in this direction is to condition the renewal of China's MFN status, as has been proposed by Senator MITCHELL, upon several important criteria, including a determination by the President that China is honoring internationally recognized standards of human rights.

President Bush claims that he must renew MFN with no strings attached in order to reward China for its role in the United Nations with respect to the Persian Gulf resolutions and the liberation of Kuwait. But how can we support freedom in Kuwait while ignoring it in China?

Another argument the administration has advanced during the past 2 years is that trade between the United States and China will liberalize Chinese society. But since 1989, the United States and China have had close trading ties, and each year, the Chinese Government has become increasingly repressive.

During the past year, Chinese authorities made it clear that they would tolerate no activities even remotely critical of the Government or the party. The Government has used intimidation and a network of informants to crush all dissent.

More than 50 prodemocracy advocates have been sentenced to death for their participation in the Tiananmen demonstration. Most have already been executed.

Thousands of democratic activists have been sentenced to prison or sent off to labor in reeducation camps. Harsh sentences, often exceeding 10 years, have been given out to prodemocracy leaders.

Two recent college graduates from Beijing were sentenced to 11 and 15 years, respectively, for printing one issue of a prodemocracy journal. No allegations of engaging in violent activity were brought against the two. But the court found their crimes to be "serious, their nature sinister, and the offense grave."

Hundreds of democracy advocates are still being detained without trial. The human rights organization Asia Watch has chronicled more than 1,100 cases of arbitrary arrest and imprisonment, denial of due process, repression of political dissidents, and the imposition of harsh prison sentences.

Those who have been sentenced are often sent off to forced labor camps. The Chinese prison camp system holds nearly 20 million people and operates as a vast industrial empire.

Contrary to claims by the Chinese Embassy that the Government "does not permit any export of products produced by convict labor," China is increasing its use of prisoners for slave labor in order to lower the price of exports. Asia Watch recently uncovered official Chinese documents that call for intensified labor camp production, targeted especially at United States, German, and Japanese markets.

Prisoners work up to 15 hours a day and are tortured—often with cattle prods—for disobedience and failure to work fast enough.

The State Department confirmed more than 300 cases of torture in 1990 alone.

Even those detainees who have been released from prison are struggling to survive. Many have been fired from their jobs, expelled from the party, and banished from their villages.

American trade policies must not be used to support these repressive policies of the Chinese Government. Extending China's MFN status without qualification can only be interpreted by democratic forces within China—and around the world—as American complicity in the inhumane practices of the Chinese leadership.

Conditioning MFN status upon improved human rights conditions would show respect for the peaceful protesters who lost their lives at Tiananmen Square. It would provide hope for the prodemocracy forces still at work within China. And it would underscore America's commitment to democracy and fundamental human rights worldwide.

If America forgets the students at Tiananmen Square, who will remember them? If we fail to stand up for peace, freedom, and democracy in China, who will do so? Americans by the millions stood with these brave men and women in 1989. Congress should stand with them today, and America should stand with them in the years to come.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. DIXON] is recognized for up to 5 minutes.

Mr. DIXON. Mr. President, I feel confident I can make these remarks in 5 minutes. If I need more time, may I ask unanimous consent to proceed without interruption.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SECOND ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE

Mr. DIXON. Mr. President, I recall vividly the series of events in Tiananmen Square. In fact, I know that all of us recall with horror, the sounds and sights of a massacre seen and heard from halfway around the world, brought directly and dramatically into our living rooms, live and in color. I, for one, will never forget it.

The images we all saw, Mr. President! The images of the lone man standing in front of the tank convoy; the fall of the goddess of democracy; the scenes of police brutality against unarmed civilians—such images are indelible because they are so terrible.

The Chinese people chose, with their lives in too many instances, freedom and democracy. The Government, committed to maintaining its outmoded policies, and its obsolete economic structure, chose force over freedom. It is fitting, therefore, that we in the United States, to whom the Chinese people looked for support and assistance, should commemorate this day as a memorial to those who lost their livelihoods and their lives for the cause of democracy. In this way, we recommit ourselves to their valiant struggle for freedom.

Since that day in June 2 years ago, we in the Congress have focused considerable time and effort on China. In spite of the imprisonments of prodemocracy student leaders on flimsy charges, the harassment of Chinese students in this country, the abuse of religious leaders, the prison labor, the nuclear technology sales, the administration has chosen to continue to do business with the Chinese Government.

Why?

I believe in doing business with China, but I do not believe one should reward a country with most-favored-nation status after it has consistently flouted the basic tenets of international law. Indeed, my colleagues will recall we revoked most-favored-nation status for Romania when dealings with the Ceaucescu regime got to be too dirty an enterprise. Can anyone convince the American people that China is a substantially fairer, more humane place today than Romania was when MFN was revoked? This Senator is not convinced.

The opponents of the majority leader's reasonable legislation to place conditions on the renewal of MFN to China will say that the Chinese leaders don't care what we do. They will do whatever they want, no matter what we do. I would suggest that the Chinese care a great deal about their trade relationship with the United States.

The release of some political prisoners, the recent accounting of prisoners incarcerated for their involvement in the prodemocracy movement, were all timed to coincide with the de-

bate here in Congress. The Chinese believe by taking some minor steps, they can avoid the wrath of Congress. They are surely not concerned about incurring the wrath of the administration.

Even if it were true that the Chinese will not change their ways, no matter what we enact in Congress, then why is it unreasonable to suggest that conditions we specify are unwarranted? Does not the United States have basic standards of conduct?

How many students and workers need to be imprisoned on trumped-up charges, how many reports of slave labor must there be, how many Tibetans have to die, or how many countries need to purchase Chinese nuclear technology, before human rights become an important enough foreign policy consideration to establish a standard by which other nations must abide in order to receive generous trade benefits?

I said in a recent floor statement that the administration was spinning its wheels in the mud of its China policy. In an attempt to extricate itself from the perception in this country that we are rewarding thugs, the administration has tried to invoke morality as the reason for extending most-favored-nation status, no questions asked. I would suggest, Mr. President, that on this anniversary of Tiananmen Square, it is right, and moral to question the Chinese Government about its prison system, its treatment of dissidents, its policies of intolerance and oppression. The fallen heroes of Tiananmen demand no less.

They are not here to ask the questions. We are. We must.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the majority leader has yielded such time as he may require to the Senator from Arizona.

The Senator from Arizona is recognized.

REMEMBER THE TRAGEDY; HONOR THE HEROES

Mr. DECONCINI. Mr. President, I thank the Chair and compliment my friend and colleague from Illinois for his statement this morning.

I remember that day so well, too. It is so vivid in our minds. I think the Senator has brought it back to us in very clear language and depicted it as one of the horrors of the modern age—to be able to witness that; and then have our Nation literally ignore it.

I thank the majority leader as well for his leadership in this area. I am very pleased the majority leader has provided the opportunity today for the Senate to remember the tragedy, and to honor the heroes of that tragedy.

Two years ago today peaceful prodemocracy demonstrators were ruthlessly gunned down in Tiananmen Square as China's aging leadership made a desperate last-gasp attempt to reassert its steel grip over its people.

Indeed, it did just that. Instead of "letting a thousand flowers bloom," the senile, Communist Chinese Government crushed those flowers and their promise of economic and democratic reform just as it tried to crush the students under the metal tank treads.

The past 2 years have seen China plunge into a new dark age. The cynical protestations of President Bush notwithstanding, China has rejected every overture to join the community of civilized nations. The President—claiming that he knows better than the American people what is good for China and for the United States—has extended to China preferential trade treatment, known as most-favored-nation trade status. As President Bush said in his speech at Yale last week,

> MFN is a means to bring the influence of the outside world to bear on China. Critics who attack MFN today act as if the point is to punish China—as if hurting China's economy will somehow help the cause of privatization and human rights. * * * But the most compelling reason to renew MFN and remain engaged in China is not economic; it's not strategic but moral.

Indeed, is it moral that we should even be considering continuing MFN status for China? Where is the morality of this country, if we are going to ignore the human rights abuses by the Chinese? It is no fun criticizing another country. It is not something that I enjoy, but it is a principle that the United States has stood by for year after year, one administration after another administration. Look at the success that our human rights policy has brought about by continuing, persisting its focus on immigration rights compliance with the Helsinki accords of 1975, with the European nations and the Soviet Union. It does work. It is something the United States can be proud of.

What has the civilized world received from China in the past 2 years in return for extending MFN status? Moral leadership? You cannot say or point to one area of moral leadership, and certainly the abuses are substantial.

It has witnessed the execution of more than 273 prisoners of conscience in the wake of the 1989 prodemocracy protests. As amnesty international has reported, the world has witnessed the detention of close to 10,000 Chinese citizens in Beijing alone for their participation in the Tiananmen demonstrations. We have seen reports of Chinese doctors being jailed for removing Government-mandated intrauterine devices from women who wanted more than one child under China's obviously abhorrent birth control policies. Indeed, these are moral issues.

United States businesses have suffered under China's protectionist trade practices while China has achieved record trade surpluses on over 90 items including chemicals, pesticides and pharmaceuticals with the United States. According to the Commerce Department, our trade deficit with China for 1990 exceeded $1.8 billion.

It increased by nearly $500 million in March of this year alone. China has also illegally pirated American copyrights, trademarks and computer software. Even the Bush administration's assistant United States Trade Representative, Joseph Massey, described China's software piracy as "enormous" when China was cited for these illegal practices less than 2 months ago.

The enormous piracy of our intellectual properties. Is that a moral issue that we should discuss? Is there a moral reason to justify us granting MFN status to China? I think the President is wrong.

What else have we received from coddling the Chinese for the past 2 years? We did not get China's support for our actions at isolating Iraq and authorizing the use of force against Saddam. Instead, we were only assured that China would not object to these actions by exercising its veto in the U.N. Security Council. Is that moral support? Hardly. At the same time, we also witnessed China's reckless escalation of its nuclear and missile proliferation policy to dangerous and unstable parts of the world. For instance, we have learned that China was secretly selling Pakistan the M–11 missile—a missile capable of carrying a nuclear warhead approximately 185 miles, thereby threatening neighbors throughout the region. According to the May 12 Washington Post, M–11 launchers have been sighted in Pakistan.

I do not believe there has been a denial there. Additionally, China exported nuclear weapons and assorted weapons technology to countries such as South Africa, Saudi Arabia, Iran, Algeria, and, yes, even Iraq. Currently, North Korean Scud missiles developed with Chinese technical assistance are being sold to Syria. In a word, we have received nothing from China in the last 2 years to justify continuing the policy of senselessly extending preferential treatment toward this nation, or for continuing the policy; it is senseless to do so.

China's actions prove it is a rogue elephant which refuses to acknowledge its responsibilities in the community of nations.

President Bush sent his representative Robert Kimmit to China to try and reason with the Chinese leadership not long ago. After his visit, Chinese Foreign Ministry spokesman, Wu Jianmin, stated, "The Chinese will never accept the attachment of various conditions to the extension of the [MFN] treatment." Clearly, reaching out to China does not work. But, do we have to accept the Chinese dictates? It has not worked, and I doubt that it will ever work. The record speaks loudly and clearly on this point. We have

found that this policy does not work, and it does not bring despot nations to their senses. This is a moral principle.

Perhaps rejecting MFN for China will work. It would certainly send a very strong and clear message to the Chinese Government that business as usual cannot continue with the United States.

I urge my colleagues to cosponsor S. 1167, legislation I introduced to immediately terminate China's MFN status. At the very least, the well crafted legislation sponsored by the distinguished majority leader must be the vehicle by which the Senate informs the Chinese—and its apologist, President Bush—that until it is ready to enter the 20th century and take steps to recognize the legitimate rights of its people and its responsibilities to the outside world, we will not do business with China's current gang of thugs.

Mr. President, let me end by saying that there are many outstanding Chinese people throughout the world. Some of us have had an opportunity to visit that country and to talk to and to get a feel for what the people really believe. By opposing MFN, we are not trying to attack the Chinese people.

And I know, from my experience there and from Chinese people whom I have met throughout this country and those who have relatives and contacts still there, that there is still a hope within the people of China for democracy and that they are literally physically and emotionally crushed by this military government which ignores their human and civil rights. A moral issue, indeed, is before us today.

I hope that we can rally support here to withstand the continued extension of preferential treatment to the Chinese Government by our own Government.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 1201 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. President, the Chair will remind the Senator from Pennsylvania that the time until 11 a.m. is under the control of the majority leader.

Mr. SPECTER. Mr. President, in the absence of any other Senator on the floor, I ask unanimous consent that I might be permitted to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection it is so ordered. The Senator is recognized as if in morning business.

FAIR STEEL TRADE

Mr. SPECTER. Mr. President, I have sought the floor to make available to my collegues a document published by the Cold Finished Steel Bar Institute, setting forth important considerations about the need for a U.S. policy to aid in the steel industry's quest for fair trade, entitled "Life After VRA's" or voluntary restraint agreements.

Mr. President, there continues to be an urgent need for reciprocity and fairness in the international steel market. This is a subject that I have addressed on this floor on many occasions in the 10½ years that I have been in the Senate. I am immediately reminded of the battles that I have fought in collaboration with our late colleague, Senator John Heinz, who was a leader for the steel industry. He and I worked shoulder to shoulder to protect the interests of the Pennsylvania steel industry.

The voluntary restraint agreements, Mr. President, were formulated by President Reagan. As a candidate for Vice President, President Bush agreed to the proposals at a very interesting meeting which Senator Heinz and I had with him at a campaign stop in 1980 in Chester, PA, not too far from a major steel installation.

The voluntary restraint agreements were significant in giving the American steel industry a fair opportunity in the world market. They are to expire in March 1992. It may be that the VRA's will be extended. That will certainly be an option and might be a very good option. It may be that the VRA's will be supplemented by multilateral steel agreements. But, Mr. President, we do need to be sure the American steel industry gets a fair shake in the world market. The United States must work to maintain a steel industry which can respond to the defense of this country in times of national emergency.

It is an unthinkable proposition for the United States to allow its steel industry to flounder while at the same time allowing Japan, Taiwan, China, Brazil or other countries to take over world markets with subsidized products.

I remember well, Mr. President, the incident of 1984 when the International Trade Commission made a finding in favor of the American steel industry and the President had the option of overruling that ITC finding. Senator Heinz and I visited all of the Cabinet members at that time who had any relationship, directly or indirectly, with the steel issue. We received strong support from then Secretary of Commerce Mac Baldrige, and Trade Representative Bill Brock and others. However, when we had our talks with then Secretary of Defense Caspar Weinberger, and then Secretary of State George Shultz, we found a strong inclination to sacrifice the American steel industry for defense and foreign policy reasons. That should simply not be repeated.

So at this time, I ask unanimous consent that the full text of this document published by the Cold Finished Steel Bar Institute be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, in the moment that I have left, I would add a word about the legislation which I have pursued for most of the 10½ years I have been in the Senate. This legislation would provide for a private right of action enabling injured parties to sue for damages and injunctive relief to stop subsidized steel from coming into the United States, stop dumped steel from coming into the United States, and to stop steel from coming into the United States which violates our customs law. The bills which I have introduced are broader than coverage of steel, but would cover any American products which are disadvantaged by foreign subsidies, foreign dumping, or violation of our customs laws.

These trade issues are very important, Mr. President, as we continue to pursue the GATT Uruguay round talks and as we look forward to negotiations on the Mexican trade agreement. Certainly there ought to be fairness for steel and really for all U.S. products. I believe that this document, which will appear at the conclusion of my remarks, will set fourth in some detail a strong case for fairness for the steel industry and, as it says, for life after the voluntary restraint agreements.

I thank the Chair and yield the floor.

EXHIBIT 1

[From the Cold Finished Steel Bar Institute, June 1991]

LIFE AFTER THE VRA'S: STEEL'S QUEST FOR FAIR TRADE

The United States will soon mark an important milestone: barring a last minute change, the steel voluntary restraint agreements ("VRAs"), which were begun in 1984 and extended in 1989, will expire on March 31, 1992.

The Cold Finished Steel Bar Institute and its member companies support efforts to replace the VRAs with strong and enforceable

rules against government subsidies, dumping, protected markets and excess production capacity. Despite their many successes, the VRAs were not a panacea. By design, they protected U.S. producers from many of the harmful effects of dumped and subsidized steel but did nothing to eliminate those unfair trade practices. World trade in steel is still characterized by massive government subsidies, market access barriers, widespread dumping and excess capacity.

Thus far, U.S. efforts to find more lasting solutions have met with resistance. In the Uruguay Round of GATT trade talks, for example, attempts to strengthen the Antidumping and Subsidy Codes with tighter controls on diversion, circumvention and repeat offenders, have not been accepted. Many of the participants want to significantly weaken U.S. antidumping and countervailing duty laws. In the Multilateral Steel Agreement ("MSA") talks, where the United States is seeking tighter controls on government subsidies and market barriers, other countries have tried to loosen existing controls on those practices.

In spite of these problems, America's cold finished steel bar ("CFSB") producers continue to believe that free and fair trade in steel can become a reality. We also believe initiatives such as the Uruguay Round, MSA and the proposed North American Free Trade Agreement ("NAFTA") with Mexico and Canada, provide the best opportunity for achieving that goal.

THE TURBULENT YEARS: 1980–1989

As U.S. policymakers struggle to find permanent solutions to steel's troubles, one thing is certain, the price of failure will be high. Analysts need only look back a few years to see the economic and human consequences of a national steel policy that relies solely on unfair trade laws.

In the four years before the VRAs took effect, over 50 percent of America's CFSB workers were unemployed and more than 60 percent of all production capacity lay idle. For the steel industry as a whole, the period between 1982 and 1986 saw over 25 producers, including LTV and Wheeling-Pittsburgh, go bankrupt and operating losses total a staggering $12 billion.

Of all the factors that contributed to this crisis, one was paramount—imports. Between 1983 and 1985, for example, imports of CFSB from the European Community almost tripled from 3.2 to 9.0 percent of domestic consumption. During the same period, total CFSB imports almost doubled from 12.7 to 20.3 percent. Today, the United States is the only major western steel producing nation that is a net importer of steel and lacks the capacity to meet its own needs.

Between 1982 and 1985, many of the integrated mills fought back by filing a multitude of trade relief actions against the major steel producing countries. Not surprisingly, these cases produced numerous findings of illegal dumping and subsidization, often at substantial levels. However, in most cases, these findings did not result in the imposition of additional duties, but a political decision to terminate the cases in favor of VRAs.

In retrospect, the VRAs were the right thing at the right time. In 1984, the industry was in chaos. Neither antidumping nor countervailing duties could be counted on to stem the flood of imports, and limited restraints on imports were the only way to guarantee the survival of the industry. The VRA program provided the industry with the breathing room it needed to rationalize production, rearrange workforce levels and invest in capital improvements.

THE CHALLENGES THAT LIE AHEAD

The impending termination of the VRAs comes at a critical point in the history of the U.S. steel industry—demand is weak, profits are down, foreign unfair trade practices continue, and U.S. trade laws are under attack. If we are to avoid a return to the chaotic market conditions of 1982–1984, when hundreds of trade cases disrupted steel producers, distributors and consumers alike, U.S. policymakers must obtain specific commitments from the other steel-producing nations to eliminate their trade distortive practices without sacrificing U.S. unfair trade laws.

1. VRAs and the Multilateral Steel Agreement

The centerpiece of the President's effort to find a permanent solution to steel's trade problems is the MSA. Still in draft form, the MSA portends new disciplines on government subsidies and market access barriers (both tariff and non-tariff) that would supplement those found in U.S. trade laws. From the beginning, the Cold Finished Steel Bar Institute has supported this "trade laws, plus" approach. Indeed, we have worked closely with the U.S. Trade Representative to craft a balanced and effective agreement.

Despite this support, certain developments cause us to question the willingness of other steel producing countries to break with the past and, to begin a new era of free and fair trade in steel:

Several trading partners want to permit government subsidies for R&D, worker adjustment, plant closings and environmental programs. They also want to "green light" these subsidies under U.S. countervailing duty laws.

Some countries are attempting to restrict the use of U.S. antidumping laws.

2. GATT Uruguay Round talks

The Uruguay Round was scheduled to be completed last March, but the talks stalled over agriculture. At this point, the United States intends to redouble its negotiating efforts, hoping to reach an agreement by the end of the year. These efforts are desirable, but they continue a danger to the manufacturing sector (including CFSB) that GATT rules against unfair trade practices may be traded off to achieve U.S. goals in agriculture or other areas.

CFSB producers, along with most other manufacturers, have vigorously opposed weakening the trade laws. With the VRAs set to expire on March 31, 1992, it is imperative that these laws be maintained and, indeed, improved. Of particular concern to the Institute's member companies is:

Many of the newly industralized countries seek to restrict U.S. antidumping and countervailing duty procedures and methodology (e.g., more difficult injury test and automatic sunset requirement).

Many of these countries oppose tighter controls on diversion, circumvention and repeat offenders.

3. North American Free Trade Agreement

In recent years, Mexico has made significant progress to expand its economy and reduce its barriers to imports and foreign investment. As a result U.S. exports to Mexico soared from $12.4 billion in 1986 to almost $29 billion in 1990. We believe a free trade agreement with Mexico will not only further that trend, but it will encourage reforms and progress in Mexico across a wide range of social, political, economic and environmental issues.

As America's cold finished steel bar producers follow the NAFTA negotiations, several issues will be important.

Whether current U.S. trade laws will continue to be available to combat unfair imports from Mexico.

Whether country of origin standards will prevent backdoor attempts by third country producers to enter the U.S. market.

Whether tariff reduction schedules will meet the special needs of import sensitive industries.

PROPOSALS

The Cold Finished Steel Bar Institute and its member companies are prepared to compete in the period following the VRAs. We welcome the opportunities and challenges presented by the GATT Uruguay Round. MSA and NAFTA. However, in order for America's steel producers to realize the full benefits presented by these initiatives, the United States must pursue the following course of action:

1. VRAs and the Multilateral Steel Agreement

It is unfair to expect our private, non-subsidized, steel producers to compete with government-sponsored imports. The trade distorting practices of foreign suppliers must be abolished and effective disciplines under the MSA should be established, preferably this year, but certainly before March 31, 1992.

If the steel-producing countries of the world are truly serious about making fundamental reforms in how steel is traded, then the MSA can be a "trade laws, plus" arrangement. The MSA should not restrict the rights of injured domestic producers to seek relief from unfairly traded imports.

If the American steel industry is to rely on our trade laws, rather than VRAs, then the strength and integrity of those laws must be maintained.

2. GATT Uruguay round talks

With the VRAs set to expire in March, 1992, this is no time to weaken our trade laws. Once the export ceilings are gone, and should the MSA fail, these laws will be the only protection America's steel producers have against a return to the crisis-days of the 1980s.

Under no circumstances should provisions that were considered and rejected by the Congress in 1984 and 1988 become part of the final Uruguay Round agreement. Instead, this is the time to strengthen the GATT rules by adding effective provisions dealing with diversion, circumvention and repeat offenders.

3. North American Free Trade Agreement

No trade-offs should be accepted that would weaken U.S. antidumping or countervailing duty laws.

The free trade benefits of the NAFTA must be limited to Mexican goods and services and not the products of third countries that use Mexican labor to assemble previously manufactured items.

Given the huge disparties between the U.S. and Mexican economies, longer tariff reduction schedules than those provided for under the free trade agreement with Canada will be required in many instances.

4. Competitiveness for American manufacturers

Domestic policy on all fronts must take into account the multiple demands now placed on American industry and adjust those demands to increase our country's competitiveness.

MEMBERS OF THE COLD FINISHED STEEL BAR INSTITUTE

*American Steel & Wire Company, Joliet, IL
*Atlantic Steel Company, Atlanta, GA
Atlas Specialty Steels Division, Welland, Ontario
Baron Drawn Steel Corporation, Toledo, OH
*Bethlehem Steel Corporation, Bethlehem, PA; Johnstown, PA
Bliss & Laughlin Steel Company, Harvey, IL; Medina, OH; Batavia, IL
*Chaparral Steel, Midlothian, TX
Charter Wire, Milwaukee, WI
Cincinnati Cold Drawn, Inc., Hamilton, OH
Corey Steel Company, Cicero, IL
Cuyahoga Steel & Wire, Solon, OH
Daley Services, Inc., Newbury, OH
Fort Howard Steel, Inc., Green Bay, WI
*Inland Bar & Structural Co., East Chicago, IN
*Kentucky Electric Steel, Ashland, KY
La Salle Steel Company, Subsidiary of Ouanex Corp., Hammond, IN
Laurel Steel Products Ltd., Burlington, Ontario
LMP Steel & Wire Company, Maryville, MO
Moltrup Steel Products Company, Beaver Falls, PA
Nortec Specialty Steels, Lubbock, TX
*North Star Steel Company, Monroe, MI
Precision-Kidd Steel Company, Aliquippa, PA
Sauk Steel Company, Inc., S. Chicago Heights, IL
*Sheffield Steel Corporation, Joliet, IL
Taubensee Steel & Wire Company, Wheeling, IL
*USS/Kobe Steel, a division of USX Corporation, Pittsburgh, PA; Lorain, OH
Western Steel Group, Inc., Elyria, OH; Gary, IN; Harford, CT

*Indicates an Associate Member.

A PATTERN OF DEFENSE BASE CLOSURES

Mr. KERRY. Mr. President, for nearly 20 years now, the New England area has been subject to a pattern of defense base closures which together have had an enormous impact on our communities. From the closing of the Boston Naval Shipyard to the Boston Army Base, the Chelsea Hospital, Westover Air Force Base, to turning Hanscom and Otis into nonactive air bases, to closing Pease, New England has been disproportionately hit by base closings.

There is a significant impact on our region from these closures. But what I want to focus on is the impact that these closings cumulatively have had and will have on the veterans of our region who served their nation so well.

There are some 93,000 veterans who live and are served by Fort Devens today. By Fort Devens' Hospital, by its pharmacies, by its PX commissary, by its administrative support. They have relied on Devens for these services as part of their nation's commitment to them for their services to it.

Following the closing of so many other bases, Fort Devens has come to represent the last military site within a reasonable distance for these service men and women. To close it, after closing Pease, after closing Westover, after putting the Weymouth base on the closing list, after eliminating Otis and Hanscom as active bases, is to break faith with these veterans.

I have spoken of this closing as treachery, because under the base closing legislation, Devens was selected to remain open as the site for military information systems. That was the plan that was agreed to. That was the plan that was submitted to the Congress. We viewed that plan to be a continued commitment to our region by the Army, and to our veterans. It made sense, and we believe that the only reason that decision was changed was politics.

The decisions made under the original Base Realignment and Closure Act would actually have increased Fort Devens' role in the U.S. Army. That added mission has basically been stolen away from the base now.

Today, many of these men and women who gave their nation so much—risking life and limb to fight for their country and what we believe in—are being abandoned by this decision. Already, medical benefits for veterans are being cut all across this country. Testimony before the Veterans' Committee by VA officials has demonstrated that money shortages have degraded the quality of VA medical care, forcing the VA to curtail staff and eliminate hospital beds year after year. Chronic shortages of essential supplies like gauze pads, urinals, thermometers, toothpaste, and even soap, prevent VA nurses to provide veterans with even basic care.

The hospital at Fort Devens represented an important part of the health care opportunities for veterans in Massachusetts. Its closure will consign more of them to the conditions of the remaining instructions run by the VA.

Veterans from our region literally will have nowhere to turn if you agree to let this politicized decision go forward. That would be an affront to the American spirit, and a breach of the contract we made with those veterans.

I urge that the decision by the Army to close Fort Devens be reversed and that Fort Devens be maintained as recommended by the original nonpartisan base realignment and closure panel.

ONE HUNDRED DOLLAR DREAMS THAT WORK—AND COME TRUE

Mr. HELMS. Mr. President, how long will it be before the U.S. Congress finally learns from its mistakes? The U.S. taxpayers are tired of billions of their tax dollars being wasted on a multitude of big-ticket foreign aid programs.

The pattern is always the same: Congress creates lavish grants and then creates commissions to find out why these programs have not worked. Then the commissions recommend more of the same.

Mr. President, there is a better way, a wiser way, a less expensive way, a more effective way. The answer, not surprisingly, lies in the private sector. The May issue of Reader's Digest contains an article describing how one American couple truly make a difference by using private money to help the truly needy people around the world.

It is the story of Glen and Mildred Leets, two innovative philanthropists in New York with distinguished careers in international development, who have provided modest $100 grants to more than 130,000 desperately poor people in more than 90 countries.

How did Glen and Mildred Leets do it? They helped people to help themselves by encouraging them to start small businesses.

After witnessing development plan failures operated by corrupt officials and inefficient bureaucracies, the Leets came up with a better idea: Offer small startup grants for cottage industries and let the dollars trickle up. Moreover, the Leets' program has built-in incentives and training in business practices.

Mr. President, about a month ago, the Senate debated the Central America Economic Recovery Act introduced by a well meaning Senator who stated that he was eager to help development in those countries. In reality, his proposal was scarcely more than a first step toward another massive foreign aid giveaway program.

The legislation would do nothing to help free enterprise, not even on a small scale. It is clear that Latin America is suffering from an economic crisis resulting from inefficient socialist programs, widespread corruption, and Government regulation of the private sector, despite the fact that the U.S. taxpayers have donated more than $7 billion for economic development in Latin America during the last 10 years.

The Senate obviously has much to learn from practical self-help programs such as the Leets' project. There are lessons we can learn from Glen and Mildred Leets. Their program is simple, yet effective. It focuses on needy people who really need help. It provides incentives. And because it is limited, it does not foster dependency on the donor.

Mr. President, all of us should learn from successful alternatives—like the Trickle Up Program—before we rush into yet another $15 billion foreign aid program that is doomed for failure.

Mr. President, I ask unanimous consent that the article, "$100 Dreams," from the May Reader's Digest be printed in the RECORD at the conclusion of my remarks. I hope Senators and others will take the time to read it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Reader's Digest, May 1991]

$100 DREAMS

(By Carolyn Males)

Three and a half years ago Pancha Maya, her husband and five children lived in a ramshackle flat in southern Nepal. Every morning the parents walked the dirt roads, seeking work in the rice fields. After the harvest, the family went begging for food.

Today the Mayas own a small paper-bag-making company. Their work space is the front yard of the new bamboo house they own. With the money they've earned, the Mayas have purchased a small plot on which they grow vegetables and raise goats for additional income. In fact, the family has saved 1700 rupees ($68), remarkable in a country with a per-capita income of $160.

Grace Mbakwa, her husband and eight children once lived hand-to-mouth in the cattle town of Tugi, Cameroon. Today the Mbakwas run a clothing-manufacturing business and own a home. They are able to send their children to school—at a costly annual sum of $2800.

The idea of starting her own business seemed impossible to Pilar Moya, a poor woman from Atahualpa, high in Ecuador's Andes Mountains. Today, however, she is one of the proud owners of a bakery specializing in sweet cakes.

These businesses are part of an economic revolution sweeping the developing world. The catalyst is the Trickle Up Program (TUP), an ingenious nonprofit organization founded by New Yorkers Glen and Mildred Leet, that offers people like the Mayas, the Mbakwas and the Moyas modest $100 grants. Since 1979 the program has helped over 130,000 of the world's neediest people in 90 countries win small, life-saving victories over poverty. And it has turned conventional thinking about foreign aid on its head.

POOR PLANNING

During distinguished careers in international development, the Leets had seen that billions of dollars pouring into Third World welfare programs were not reaching those who needed help. Corrupt officials took their cut, then bureaucracies devoured the rest. What money the poor did get only made them more dependent.

Even well-intentioned projects were often poorly planned and executed. The Leets once visited a Caribbean-island place-mat factory, expecting to see the much-touted modern machinery purchased with foreign aid. Instead they found ten workers huddled in a vast room, stitching the coconut fiber by hand. Dozens of new sewing machines nearby lay idle, covered with dust.

"Why aren't you using your machines?" Glen asked the women. "We have electricity only one day a week," they replied. Planners hadn't considered the cost of gasoline to power the generators. So the plant's output remained the same.

The Leets concluded that there must be a better way. Wouldn't it make more sense to offer small grants to start cottage industries and services and let the dollars "trickle up"? Then, step aside as individuals use their own skills and initiative to pull themselves out of poverty. That would cut out the fat-cat middlemen as well as the complicated grant applications and regulations that drain resources, energy and enthusiasm. Skeptics jeered. Fight global poverty with $100 grants? Ridiculous! It was like aiming with a pea shooter at a giant.

HEADS UP

Undaunted, the Leets put their theory to the test on the Caribbean island of Dominica. They outlined TUP's requirements to a group of locals:

Get five or more people together, decide what kind of a business you want, and draw up a marketing plan with a TUP coordinator's assistance. TUP will send a $50 start-up check. Within three months, put 1000 hours of work into your company, keeping records of sales. Reinvest 20 percent of the profits and fill out a one-page business-report form. TUP will mail a second $50. After that, you're on your own. No more money. No exceptions.

"Some listeners looked incredulous," Millie recalls. "But there were two or three whose eyes lit up." At the port town of Marigot, the Leets met with five poor women who were eager to start their own business. Marigot, one woman explained, had a big plant where South American bananas, bound for Europe, were crated. "If one banana is spoiled," she said, "they throw out the entire bunch."

"Is there anything you can make with the bananas?" the Leets asked.

"We thought we might make dried banana chips to sell in grocery stores," another replied Strangely, even as the conversation grew more animated, the women kept their heads down.

"How much is your work worth per hour?" Glen asked. The group seemed baffled by the question. "It's not worth anything," murmured Myld Riviere. Millie persisted. "Okay, if someone paid you for this work, how much would it be? About one dollar, Myld estimated. "Well, if you put in a thousand hours in your business, that's $1000," Glen pointed out. Suddenly the women's eyes lifted. A thousand dollars? Their time had value!

Soon the Leets, who still take no salary, moved on to Jamaica, Montserrat, St. Kitts and Barbados. They set up office in their New York apartment, filling file cabinets with TUP business plans and reports. By 1981, TUP was incorporated. Fired by the couple's successes, government and social-development agencies, corporations, philanthropic foundations and friends began sending contributions. With the money came volunteers—nearly 3000 since the program began.

Once a project is deemed doable, the coordinator forwards the business plan to the Trickle Up offices in New York, and the Leets send the aspiring partners their first check. Along with encouragement, coordinators coach the new entrepreneurs in setting up business procedures, bookkeeping systems, or in developing a new skill.

But advice is given sparingly. "We've found that too much handholding results in dependency," Millie explains. "We want the new entrepreneurs to fly free and learn from their own mistakes."

RIPPLE EFFECT

Has TUP made a difference? Simply put, Trickle Up, the new kid on the foreign-aid block, runs rings around other programs. It generally costs $20,000 to create one formal job using the traditional foreign-aid methods. For the same money, Trickle Up can create 1000 grass-roots jobs.

The program makes wide ripples in local economies as well. Entrepreneurs and their families eat more nutritious food and live in better housing. They can now pay for their children's schooling and medical care. And they can also afford to buy goods and services from neighborhood bakers, butchers, potters and carpenters.

As one person sees another climb out of poverty, he, too, dares to dream. In Ubate, Colombia, Drigelio Perdomo began a family-operated hair-roller factory. Impressed by his accomplishments, neighbors started five other enterprises—three wool-knitting businesses, a pants-manufacturing factory and a hydroponic vegetable farm.

By requiring a 20-percent reinvestment of earnings, the Leets encourage people to save. Apparently, the entrepreneurs have taken the money-management lessons to heart, for they plow an average 52 percent of their profits back into their businesses.

Success is measured not just in money, but in the new self-confidence on the faces of TUP's beneficiaries. It's dressmaker Grace Mbakwa from Cameroon pointing with pride to her Paid Business License on the wall of her shop. It's 50 women from a squatter settlement near Nairobi, Kenya, marching en masse to open savings accounts. It's Pancha Maya, who once wore rags, standing tall in her lovely red sari among neighbors in Nepal. Even the names many TUP grantees choose for their businesses—The New Hope, Marching Together, The Progressive Five—reflect their new-found strength.

In 1989, when Millie returned to Dominica, she found the banana-chip company company still in business, although much had changed after almost ten years. It was now housed in a two-room factory. When Millie knocked, Myld Riviere opened the door, a broad smile on her face. Boldly extending her hand and looking Millie in the eye, she was no longer the shy, unskilled woman who valued her labor at nothing.

REPORT CARD

The Leets estimate that more than two-thirds of businesses begun with TUP funds are still thriving. But even if a business folds, much is gained, for entrepreneurs take the talents they've developed to start new ventures.

Over the past 12 years this learn-by-doing attitude has earned TUP a good report card and a cornucopia of awards. One of the most memorable awards was presented to the Leets on a warm night in a small wooden church outside Nairobi.

The building was packed with 150 TUP entrepreneurs from a squatter settlement. After TUP coordinator Rev. Humphrey Sikuku ushered Glen and Millie through the crowd, many of the 40 group leaders stood to explain how TUP had changed their lives. They no longer had to worry about survival, they told the couple. Now they could focus on their future. Proudly, the group handed over a packet of money that they had collected. "This is to help people in other countries as we have been helped," they said. Millie counted out 500 shillings (then about $31)—the equivalent of 500 days' work.

Clearly, Trickle Up has helped the destitute dare to dream. One of the destitute dare to dream. One of the best illustrations of this occurred in the Philippines when Millie visited a sausage-making company headed by Carlota Yambot. Just before leaving, she asked Carlota's children what they wanted to be. "A lawyer," said the 17-year-old daughter. "A pharmacist," said the 15-year-old son. "A foreign-service worker," said the 13-year-old. Clutching Millie's arm, Carlota smiled and said, "We all have dreams, but now because of Trickle Up, we have hope."

THANK YOU

Mr. ROCKEFELLER. Mr. President, I rise before the Senate today to recognize a unique contribution that has been made for all of us who have struggled to find a way to appropriately express our enormous gratitude to the young men and women who served their country so valiantly in the Persian Gulf. I had the opportunity recently to hear a song written in tribute to our troops which, in my judgment, provides a fitting tribute and expresses a depth of emotion worthy of the sacrifice made by so many of our soldiers and their families.

This song was written by Bobby Nicholas, who lives in Morgantown, WV. Like most Americans, Bobby and his wife, Doris, watched the television reports of the opening shots in Operation Desert Storm erupt on January 16.

And, like more than 500,000 American families, they were thinking of their own son, Robert Jr., who had recently finished basic training at Fort Gordon, GA, and was a prime candidate for the Persian Gulf. This son, Robbie, so much on their minds, is the second of five children, ages 8 to 24.

On that first day, Bobby's thoughts were mixed. He supported the initiative to liberate Kuwait and the attempt to oust Saddam Hussein—as did most of his friends. But he dreaded the thought that his own son might be one of the young persons called upon to risk life and limb.

Bobby watched the news of the Persian Gulf crisis each day with pride in the ongoing success of the American and coalition forces, yet ever mindful of the dangers facing America's youth.

He continued to watch as the events shifted to the stage when most experts were saying that the use of ground troops would be necessary. The ferocious reputation of the Republican Guard had become familiar to Americans. The apparent possibility of a prolonged ground war made Bobby even more fearful that his son would see action and perhaps harm.

Then, as if a miracle had occurred, the war was over, and Bobby thought about the many anxious wives, husbands, mothers, fathers, children, and other relatives—across West Virginia and the country—who had gasped at every report of lost aircraft and ground warfare.

The news filled with pictures of happy children and jubilant adults, all now anticipating the homecoming.

And, unlike the day the conflict started, when he had called his employer at a Morgantown night club and said he just did not feel like singing that night, Bobby felt like singing and singing out.

Bobby Nicholas felt greatful to those who had been there and to the families who had waited and worried and prayed. He remembered his frantic drive to Fort Gordon in late January to visit the son he feared he may never see again. He remembered seeing there the faces of soldiers, young men and women, some of whom would go to the gulf and risk their lives. He remembered those who had suffered and those who had died.

And he reflected on the near-universal support and unification of the American people and their commitment to the cause of freedom in a distant land.

Those images and his wish to make a statement, to cry out with relief and gratitude, haunted him until the words started to come. And come they did. This man who had sung in church choirs since childhood and who had been a professional singer for all of his adult life put his words on paper and then quietly sang the tune. He had written the song, "Thank you," in one afternoon. And, though a singer of immense talent, Bobby Nicholas had never before written a song.

I cannot predict with certainty that "Thank you" will become the enduring anthem of our Nation's gratitude to those who sacrificed to defend international order and decency. But, when another individual wrote the words to the Star Spangled Banner one morning in 1814, to express his joy that the country still existed and its flag was still flying, that now legendary figure, Francis Scott Key, a lawyer, had never written a song either. He could not have known then that his words would become the symbol of the celebration of our great nation.

And when Julia Ward Howe wrote the words to "The Battle Hymn of the Republic" that day in 1861 as McDowell's troops crossed the Potomac to fight the Confederates in the first battle of Bull Run, she could not have known that her words would become a song representing the righteousness of the unity of the United States and the cause of freedom. She, too, is not known to have ever before written a song.

Bobby's song, "Thank you," came as an inspired surge of emotion that, in its own way and in its own time, is as heartfelt and as appropriate as the works of Francis Scott Key and Julia Ward Howe in their own anxious times of national crisis.

Listen to Bobby's own description of how he came to write "Thank you":

> The song was meant to be an open letter to the men and women who served in the Persian Gulf. I thought of it as my way to say thank you for a job well done. My son was in the Army Reserve, and I knew what every mother or father, brother or sister, husband or wife in any conflict must have felt.
>
> The sense of helplessness and worry, of just wanting to do something and not being able to, became prayers that they would all return home safely. I strongly believe that "we must all remember so we don't forget that the price we pay for freedom isn't over yet".
>
> Looking at my eight year old, I could only wonder if someday he, too, would be called to serve his country. But we have to hope that this will be the last time that we have to fight for what we know is right. I guess that the lesson to be learned is that when the time came to stand together as a nation, we did it, without reservation. Side by side, North and South, black and white, we showed a new spirit of unity to make this nation what we know it can be. This is just my way of saying, thank you to all the people of this great country.
>
> BOBBY NICHOLAS.

It is with great pride that I can report that this humble citizen from Morgantown, WV, has been invited to sing his song at the Desert Storm celebration for our troops and their families here in Washington, DC, on June 8. On behalf of his fellow West Virginians, I salute Bobby Nicholas for his patriotism and compassion.

Mr. President, I ask unanimous consent that the lyrics of that song that so eloquently expresses the feelings all of us hold in our hearts be printed in the RECORD.

There being no objection, the lyrics were ordered to be printed in the RECORD, as follows:

THANK YOU
(By Bobby Nicholas)

It's such an inspiration, to see a nation sing
America the Beautiful, just let our freedom ring
To see little girls and little boys
Waving the flag instead of toys
To see moms and dads joining hands
In celebration of common man

Chorus:
We just want to say thank you
For all that you have done
You made us proud to be an American
We as people stand as one
And we must all remember so we don't forget
The price we pay for freedom isn't over yet

We just want to say thank you
For now you let us see
That we can live together, in peace and harmony
From Fort Bragg to Chicago
From sea to shining sea
We did it all together, my brother, you and me

We just want to say thank you
For the sacrifice you made
We know it wasn't easy
Far away from home each day
From Spokane down to Galveston
From Boston to L.A.
You pulled it all together
To brighten up this day

I can only wonder, what old Abe would say today
To see the north and south, fighting together
From Gettysburg to Atlanta GA
To see men and women, black and white
Standing side by side for freedoms right
Oh, if he were here today, I'm sure this is what he'd say

To be spoken—
That this nation under God
Shall have a new birth of freedom
And that govenment, of the people
By the people, and for the people
Shall not perish from the earth

We just want to say thank you
For we can hold our heads up high
Yes you have brought us all together

Under one big sky
We thank you Norm and Colin
You showed our nations pride
That we will all remember, until the day we die
So let sing . . . God Bless America

A COMMUNICATION TO THE PRESIDENT OF NICARAGUA

Mr. MCCAIN. Mr. President, today Senators DOLE, KASTEN, MACK, CRAIG, DURENBERGER, SMITH, SYMMS, HATCH, and I sent a letter to the President of Nicaragua, Dona Violeta Barrios de Chamorro. We wrote to inform President Chamorro of our concern over her government's recently concluded contractual arrangement with Reichler and Soble, attorneys at law.

I ask unanimous consent that the letter be made a part of the RECORD following the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 24, 1991.

Her Excellency DONA VIOLETA BARRIOS DE CHAMORRO,
President, Republic of Nicaragua.

DEAR MADAME PRESIDENT: We have recently been informed that the Nicaraguan Ministry for the Presidency has concluded a contract with Reichler and Soble, Attorneys at Law for the expressed purpose of representing Nicaragua's position on the civil war in El Salvador to members of the United States Congress. As members of Congress, we wish to make clear how disturbed we are that the freely elected government of Nicaragua would seek the services of Mr. Paul Reichler, principal partner of Reichler and Soble, and formerly the de facto spokesman of the Sandinista National Liberation Front.

We are among the most faithful supporters of Nicaraguan democracy. For many years, in a variety of public fora, our support of Nicaraguan democrats, as well as our personal support for you, required us to endure Mr. Reichler's unswerving defense of the Sandinistas' brutal repression of the cause for which you have dedicated your life. We are gravely disappointed that your government would now engage Mr. Reichler to represent to us your position on the question of El Salvador.

Of all the issues of mutual interest to the United States and Nicaragua, we cannot think of one where Mr. Reichler would be a less credible spokesman. We understand that Mr. Reichler has the right to represent your government, and that your government has the right to employ Mr. Reichler. We do not wish to interfere in the sovereign affairs of your country.

However, as your supporters, we feel obliged to advise you that, at a time when you are seeking additional economic assistance from the United States, Mr. Reichler's representation of your government will harm rather than enhance your government's image with members of the United States Congress.

Sincerely,

John McCain, Robert Kasten, Larry Craig, Robert Smith, Orrin Hatch, Robert Dole, Connie Mack, David Durenberger, Steven Symms.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. LIEBERMAN). Under the previous order, the hour of 11 a.m. having arrived, morning business is now closed.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 173) to permit the Bell Telephone Co. to conduct research on, design, and manufacture telephone communications equipment, and for other purposes.

The Senate resumed consideration of the bill.

Mr. HOLLINGS. Mr. President, let me first thank my distinguished colleague, the senior Senator from Kentucky, Senator FORD, a very able member of our committee who took the floor in presenting this measure on yesterday. We appreciate his strong statement and understanding of the issue at hand and his tremendous help on yesterday in presenting it to the Senate.

I rise today to speak in favor of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act. This legislation is essential to the future competitiveness and economic security of the United States.

Mr. President, that is not a light statement. We have tried this approach of restrictions and often it is that we in the U.S. Congress think that when we get the domestic crowd controlled and restricted that we have control. We are not in control at all. And it becomes more and more dramatically demonstrated each day that passes.

I want to emphasize this to bring into focus the particular issue at hand because we are not running pell mell for a monopoly. In essence, we are going to be really struggling with the various amendments of a monopoly; namely, AT&T, which has been the principal opponent. They have a good deal going. They have long distance, almost exclusively.

What they do is, they manufacture and they deal with themselves, and all these amendments about self-dealing, all these amendments about content and various other things do not apply to them at all. And all the concerns of my consumer friends about the adverse effect if this bill passes on consumers has not occurred, of course, with AT&T and long distance rates which are regulated both at the Federal and State level, obviously regulated at the State level in the main and at the Federal level for the regional Bell operating companies.

But more than that, there is a tremendous dynamic competition, if you watch these Bell Cos. compete against each other. If I could, I would have changed the name of the Bell Cos.' to the Different Other Cos.' Let one be Bell and another one be Horn, and every instrument in the band, and call one the Drum Co. and one the Saxophone Co., to get the mentality of the U.S. Congress changed to the particular issue at hand.

We have tremendous competition going on. So much so, that with all $80 billion in the revenues of the seven operating companies, they go pell mell overseas, investing like gang busters, buying up New Zealand, buying up Mexico, buying up Argentina. They are putting in optic fiber from Moscow to Tokyo, and cellular phones in downtown Hungary.

And we are sitting back here in the U.S. Senate, saying, We are in charge, we know what we are doing and we have control of the market. No, market forces operate.

I had that debate here only last week with respect to fast track. And it was very difficult to get that idea through everybody's mind. As long as they understand that the Government is the most important element in that market force in international competition. Domestic content, for example. There will be many, many amendments made about domestic content. And we are forced, under the circumstances, on the one hand to meet that kind of competition.

They have domestic content in the home countries of all these foreign entities doing business in the United States. They have the domestic content provisions there. On fast track most people, as a result of the diligent work by the White House over a 7- to 8-month period, came with mind sets to this floor and they did not understand that what we had, in essence, was not a debate about free trade but fee trade. The fees are being paid as I am talking about free Mexico. And the foreign entities are moving in and paying the fees. It is an accepted procedure.

We have a Foreign Corrupt Practices Act. But that is the rule of the game. If you are a member of the Diet, you not only get your stipend, you have three or four companies that pay you on the side. That is not a Congress. Americans think everybody is just like us. You have to pay the mordida, in downtown Mexico now. And they are all doing it and they are all locating there. We are not losing jobs, we are losing entire industries. It was not free trade, it was fee trade. And all the reports said the little South Carolina Senator was worried about his textiles.

That worry is practically gone. We have passed the textile bill four or five times and it has been vetoed each time. And we still struggle along.

Learning from that experience, I think it is very important, in this particular measure, to bring right into sharp focus what the situation is. The

situation is, due to a consent decree back in 1984, the divestiture of American Telephone & Telegraph, we had eight companies, seven Bells and AT&T, and all were separated out under a modified final judgment, the MFJ.

It is very interesting to note, that AT&T at that particular time said they did not want to have any restrictions on any of the companies. I quote the AT&T general counsel. I also have a statement of Charlie Brown, the chairman of AT&T at the time:

I am against restrictions. I will be happy if nobody is restricted on anything. After this divestiture occurs, let the regional Bell Operating Cos. do what they want.

Well, the Justice Department did not agree with that. They had misgivings on antitrust, and they forbade the seven operating companies to get into information services, into long distance, and into manufacturing. This bill, S. 173, has no concern with information services and long distance. Long distance is out there and being operated and there is no petition or desire to get into that. Information services would be too complex and I do not think we would advance very far in all reality. But in manufacture, this Senator, and many of our other colleagues in the body, are very much concerned about the ineffectiveness, in fact, the reverse effect of this legislation on our economy, our investment, our research, our development—our remaining on the cutting edge of communications technology.

If you cannot make money out of it, then why invest in it and why not go to New Zealand, and go down to Argentina, and go down to Mexico, and go anywhere else? After all, you have stockholders and they are looking for returns. You want to be a forward-looking executive, a corporate head, and you want to make sure you get the best returns. And it is mandatory you do so in order to keep your rates down. So that is what we are doing.

Here is an entity; namely the U.S. Senate, with a Budget Committee and Finance Committee doing this, while everybody else is looking around for investment dollars. I have described the competition down in Mexico on fee trade already, investing $1 billion, Nissan announced; $1.5 billion for Volkswagen, $400 million from Hyundai—you can go right on down the list. Corporate America is on its financial heels. They are not investing. They are overextended at this particular moment.

Here we have some of the strongest corporate entities, financially strong, with money to invest, that are being forbidden to do so by a rather fanciful restriction that has not proved out. It cannot be restricted because others are coming in here and taking over the market, buying up the companies, advancing in the technology because they can do the research—we cannot do the research and development—and literally taking the remaining thing we have left with respect to our technology.

At least the Senators can concentrate on one. They cannot seem to get the broad picture of international trade. Let us hope they can get at least a picture with respect to communications technology, communications trade, communications manufacture, research and development, and keeping America strong; and, yes, keeping the consumers properly serviced with the advanced technology.

This bill is not against the consumers, as they are going to try to charge in some of these amendments. This is a proconsumer bill if there ever was one, if we want to really satisfy the consumers as they watch these other developments in France and everywhere else tie these things in and wonder why.

It is like our late friend, Senator Robert Kennedy said, "Some men see things as they are and wonder why, I see things that never were, and ask why not."

Here we are going out of business because of this restriction enforced by the Justice Department, in the original instance now, has gone by the board. The foreign entities have gone around the end. And it is not a small advance. I want the colleagues to understand. Here are the companies with home markets which have domestic content provisions, with financing and all.

We know the cartel provisions in Japan and the government-supports in all these other countries. They do not have a Glass-Steagall Act in Germany. The bank can be part of the business. The business is part of the bank. And we are losing construction contracts the world around.

Similarly, the aircraft industry is learning what France and the rest of them do over there, and the Europeans. EEC 1992, incidentally, is not orchestrating and organizing for free trade, they are organizing for the trade battle. As we are sitting back here, fat and happy, and dumb to boot, here is exactly what is going on.

I will take a little time of the Senate because this is the alarm that sounded to me when I realized how pervasive the invasion and takeover of our communications industry in America is, almost like fleas on a dog: Hitachi, Japan, manufacturing computers and telecommunications equipment in numerous facilities around the country. In April 1990, Hitachi announced their intention to acquire the U.S. computer peripheral maker, data products, for $160 million.

Matsushita operates eight plants in the United States. It expects to add more. It opened a seventh research laboratory in September of 1990 to develop airline passenger information and communications equipment. The ruling of Judge Greene, who has been administering this modified final judgment, has been interpreted on numerous petitions that we have made before the judge, to forbid, in reality, any research work.

Because if you do it, you can combine with some entity outside, but then you cannot test it, and whoever is doing the research work you cannot tell them why it did not test good, it was faulty, and they have to guess again and come back again. Of course, industry and business are too dynamic to put up with that nonsense, and they just do not have research.

So the research moneys are coming right in here from the foreign entities who are taking over. Fujitsu has a commitment and they capture a share of the U.S. digital central office switch terminal equipment market. They have developed a switch and advanced broad band capabilities. They want a 10-year, $17 million contract with the Telecommunications System of California, in Fresno. They have six research and development centers as well as manufacturing facilities in the United States. They have an $80 million telecommunications plant in Richardson, TX. Fujitsu North American Communications Manufacturing Operations will employ up to 4,500 by the year 2000, and they want to increase the product demand in the United States from 20 percent to 50 percent.

I ask unanimous consent, Mr. President, to print this summary of foreign investment and control in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREIGN COMPANIES ARE DOING WHAT AMERICAN COMPANIES CANNOT

Examples of foreign activity in U.S. markets closed to the Bell Holding Companies by the MFJ restrictions:

Hatachi (Japan), is implementing strategy designed to significantly increase its information systems manufacturing base in the U.S. Is manufacturing computers and telecommunications equipment in several facilities around the country, and has plans to begin extensive research and development activity by 1990s. In April 1990, announced intention to acquire U.S. computer peripheral maker Dataproducts for $160 million.

Matsushita (Japan), operates eight plants in the U.S. and expects to add more. Since 1983, has developed/acquired U.S. facilities to produce cellular mobile telephones, pagers, and computer systems components. Opened seventh U.S. research laboratory in September 1990 to develop airline passenger information and communications equipment. Other facilities are conducting research in areas such as speech recognition and synthesis, digital image processing and high density data recording, communications systems, advanced computers and high definition television.

Fujitsu (Japan), has recently made commitment to capture share of U.S. digital central office switch and ISDN terminal equipment market. Has been running U.S. trials on terminal equipment since 1986 and

purchased U.S. computer peripheral maker Intelligent Storage in 1988. A Fujitsu digital switching system is currently undergoing beta testing for U.S. market compatibility. Aiming for Bell operating company business in the ISDN and post-ISDN marketplace, Fujitsu has developed switch with advanced broadband capabilities. Fujitsu recently won a 10-year, $17 million contract to build integrated telecommunication system for California State University at Fresno.

Fujitsu has six research and development centers as well as communications equipment manufacturing facilities in the U.S. Began construction in Fall 1989 of $80 million telecommunications plant in Richardson, Texas scheduled for completion in 1992. New plant will be base for all Fujitsu North America's communications equipment manufacturing operations; will employ up to 4,500 by year 2000. Fujitsu wants to increase its product demand in U.S. from 20 percent to 50 percent by 1992. Company is also considering entering U.S. market for UNIX-based software applications; tentatively plans to open software development center in U.S. by mid-1991. Fujitsu is reportedly among several companies negotiating with AT&T to acquire minority stake in Unix Systems Laboratories, AT&T subsidiary that develops Unix computer operating systems and software.

Nippon Telegraph & Telephone (Japan), Japan's domestic telephone company, announced its entrance into rapidly growing $40 billion U.S. data communications services market in February 1990. Subsidiary, NTT Data Communications Systems Corporation, has opened offices in Jersey City, NJ; initial target will be Japanese companies doing business in U.S.; future targets are likely to be U.S. companies. NTT Data will manage, data transmission facilities, office phone systems, and develop private data network software for customers. Project is NTT's largest investment in U.S.; will initially be about $100 million. NTT Data employs 7,000 worldwide and had 1989 revenues of $2.7 billion. NTT also owns over 50 percent of NTT International which established Dynamic Loop Corporation in Delaware to invest in communications projects in U.S.

NTT is also the major investor in Alcoa Fujikura, a Spartanburg, SC joint venture that produces fiber-optic hardware for assembling communications networks.

NEC (Japan), has about 8 percent of North American office telephone switch/equipment market. It is dedicated to worldwide development of products and services that integrate computer and communications technologies. Operates four manufacturing plants in U.S. and in 1988 increased the capability of its specialized semiconductor design centers and added new facilities for developing communications systems software and home information systems technology. Opened new research facility in Irving, Texas in November 1989, the Advanced Switching Laboratory, that will develop broadband hardware and software for central office and customer premises equipment. ASL employed about 50 doctorate level engineers by mid-1990 and plan is to double that number. Lab is intended to become key source of software that drives NEC's advanced communications equipment; was based in U.S. because NEC believes U.S. still has superior software technology and wants to take advantage of it. NEC is reportedly among several companies negotiating with AT&T to acquire minority stake in Unix Systems Laboratories, AT&T subsidiary that develops Unix computer systems and software.

In May 1990, NEC opened a $25 million research facility in Princeton, NJ, where mostly American scientists will concentrate on basic research in physics and computer science, areas that are the foundation of advanced communications technologies. Facility is expected to employ about 100 persons, about half of whom will be researchers; several scientists already hired were previously with AT&T's Bell Labs.

Kokusai Denshin Denwa (Japan), established first U.S. subsidiary to market telecommunications products and services to American firms in Fall 1989. In addition to seeking new business, KDD America will coordinate operations of Telehouse International, New York-based firm of which KDD is largest shareholder with 25 percent. Telehouse is leading provider of super-secure, disaster-proof computer, communications, and data processing centers to the financial industry. It recently opened second facility, a $35 million center on Staten Island. (Except for 12 percent interest purchased by AT&T in May 1989 the rest of Telehouse is held by other Japanese firms.) KDD is also part owner of Infonet, California-based packet switch network company that provides value-added network products and services to global data communications market.

Nintendo (Japan), is developing interactive videogame and information service network for introduction into U.S. market by 1991. Network would link already popular Nintendo Entertainment System (NES) videogames for long distance game playing and access to other information services. Users would access main computer and software from anywhere in U.S. AT&T is expected to be partner in venture.

Ricoh (Japan), has aggressive plans to expand its U.S. business to point where 25 percent of its revenues are from this country. Company, which makes copiers, facsimile machines and other automated office and communications equipment, now does 15 percent of its business in U.S. Ricoh opened $2.5 million plant outside Atlanta, GA in October 1990 and plans to increase its manufacturing presence in U.S. over next few years.

Recruit Company (Japan), provides information management and telecommunications services in New York City area through subsidiary Recruit USA. Operates super-secure, disaster-proof data service centers in Newport, NJ and Staten Island serving customers primarily in the financial and banking industries. Dedicated fiber-optic network links centers to Manhattan.

Toshiba (Japan), began manufacturing telecommunications equipment for U.S. market in Irvine, CA in October 1989. Decision to move manufacturing from Japan is largely effort to avoid imposition of import duties if company is named in anti-dumping suit. Toshiba added 103,000 square feet to its plant in Irvine, CA to accommodate manufacture of PBXs and key systems. Irvine plant is also Toshiba's major U.S. personal computer assembly facility. In October 1990 Toshiba announced goal to assemble all computers it sells in U.S. in Irvine by 1993 and to increase local content from 25 percent to 40 percent. In effort to strengthen software development, particularly for its lap-top computers, Toshiba also plans to more than double number of software technicians in Irvine to 160 by 1993. Toshiba is reportedly among several companies negotiating with AT&T to acquire minority stake in Unix Systems Laboratories, AT&T subsidiary that develops Unix computer operating systems and software.

In April 1990, Toshiba America Consumer Products Inc. announced plans to open research center in New Jersey to develop high-definition television technology.

Mitsubishi (Japan), manufactures mobile telephones in U.S. through its subsidiary Mitsubishi Consumer Electronics, Inc. In November 1990, announced plans to double annual output at its Georgia plant to 40,000 mobile phones by March 1992.

Siemens AG (W. Germany), has launched concerted effort to increase its presence in U.S. by acquiring over 30 U.S. companies. Is concentrating on five high-growth areas: factory automation, office automation, telecommunications, semiconductor technology and diagnostic medical equipment. Major communications deals: purchased 80 percent interest in GTE's Communication Systems' Transmission Product Division (1986); acquired, for $165 million, full control of Tel Plus Communications, the largest U.S. independent interconnect company (1987); paid almost $1 billion for ROLM, IBM's telephone equipment manufacturing arm (1988). Purchase of ROLM increased Siemens' share of North American office-telephone equipment market from about 4 percent to over 20 percent; almost doubled its share of world market. Efforts to increase share of U.S. digital central office switch market are backed by 500-engineer research facility devoted to specialized software development.

In November 1990, Siemens and U.K.'s GPT Ltd. announced intention to merge the two companies; public telecommunications operations in the U.S. Joint venture between Siemens Communications Systems, Inc. of Boca Raton, FL, and Stromberg-Carlson Corp. of Lake Mary, FL, will be known as Siemens Stromberg-Carlson and will be North America's third largest public network supplier. Venture, which will have about 4,000 employees based largely in Florida, will design, develop, produce and market computerized public telephone switches, packet switching and transmission systems.

Deutsche Bundespost Telekom (Germany), will open U.S. office to spearhead effort to transfer its already successful German videotext and value added network services to U.S. market. Is part owner of Infonet, California packet switch network company that provides value-added network products and services to global data communications market.

France Telecom (France), provides long distance data communications through Minitel Services Company (MSC is joint venture between Minitel USA and Infonet); MSC's "videotext network" is slated to eventually serve 150 cities in U.S. and Canada. Through U.S. subsidiary Minitelnet, France Telecom is offering over 10,000 videotext information services to U.S. including electronic directory services it publishes.

Alcatel NV (France), is launching strategy to develop and market intelligent network products worldwide. Gaining ground in American market is Alcatel's top priority; plans to reenter U.S. public switching market with broadband ISDN technology in mid-1990s. Recent acquisition of U.S. fiber and cable business makes Alcatel third largest supplier in U.S. In 1987, Alcatel NV began manufacturing key systems and PBXs in Corinth, MS.

Groupe Bull (France), agreed to purchase Zenith Data Systems for up to $635 million. Zenith Electronic's successful computer unit, Zenith Data Systems had 1988 sales of $1.4 billion; is largest seller of battery operated laptop computers in U.S. Acquisition will make Bull largest European computer company; it will gain market share in U.S. and Europe and be positioned to compete on global scale.

British Telecom (U.K.), wants to become leading information services company in U.S. by providing videotext and other information services through BT-Tymnet, company formed by consolidation of BT's Dialcom unit and recently purchased Tymnet, Dialcom, Rockville, MD-based operation with marketing arms in U.K. and continental Europe, was purchased from ITT in 1986 and ranked as third largest e-mail provider in U.S. in 1987. BT has invested over $40 million to add new databases and advanced 2-mail services to Dialcom service. It has enhanced service offerings by linking its U.S. and U.K. data centers via long distance communications; arrangement allows BT to offer all services to all users (whether in U.K. or U.S.) without incurring cost of duplicating software or databases. Dialcom counts among its customers the U.S. Congressional Correspondence System which provides electronic mail service to the Hill.

In July 1989, BT reached agreement with McDonnell Douglas to purchase Tymnet, the second largest U.S. provider of value-added network services with annual revenues of about $250 million. Purchase price was reportedly $335 million. The acquisition of Tymnet gave BT a vast U.S.-based network linking over 750 U.S. cities and more than 30 countries. In addition to the network, sale also included McDonnell Douglas' e-mail and electronic data interchange systems, which substantially strengthened BT's already formidable position in the U.S. electronic services market.

BT is also aiming to penetrate North American computer/communications systems integration market. It plans to develop, manufacture and market broad range of data communications equipment through Herndon, VA based subsidiary BT Datacom. (Formerly Mitel Datacom, unit of Mitel, Canadian company in which BT has 51 percent interest). Products will include fiber optic LANs, computer integrated telephony products, PCs and terminals. BT is backing entry into U.S. data communications market with over $20 million research and development effort.

BT's purchase of 22 percent stake in McCaw Cellular Communications Inc. gave it access to 30 percent of U.S. mobile communications markets, including cellular radio, paging and digital cordless communications. Through this venture BT can offer statewide automatic cellular services, a service Bell company cellular operations cannot provide, at considerable competitive disadvantage, due to MFJ interLATA restrictions. BT also purchased 80 percent of Metrocast paging from Metromedia Telecommunications and plans to spend over $21 million in system expansion, operations and marketing plans.

Cable & Wireless (U.K.), provides long distance telephone service throughout U.S. through owned and leased facilities. By almost doubling capacity of U.S. portion of its "Global Digital Highway," Cable & Wireless has coast-to-coast network that is more than 90 percent fiber optic and has access to 80 percent of U.S. business population with equivalent of 27 million miles of high quality circuit capacity. Long distance traffic over this network increased by 21 percent to over 630 million minutes. In December 1989, C&W began 100 percent digital end-to-end private line service in California for in-state data transmission. Company has been targeting services primarily to business customers, but plans to begin marketing more aggressively to residential customers.

In November 1990, Cable & Wireless reached an agreement to acquire Washington, D.C.-based Alba Data Technology, also known as DataAmerica. Acquisition of DataAmerica network will enable C&W to offer services such as electronic mail and electronic data interchange. C&W also purchased long distance portion of GTE Telemessengers voice messaging business in January 1991. Together, acquisition move C&W closer to goal of offering end-to-end enhanced data networking services in U.S. and globally.

Hawley (U.K.), paid $715 million for American District Telegraph (ADT), leader in U.S. security products and services (including remote electronic security information services).

L. M. Ericsson (Sweden), has assets in U.S. of only about $320 million but has about 5 percent of U.S. PBX equipment and multiplexer market and is aiming for 10 percent. Ericsson is becoming player in integrated communications systems business. In Spring 1989 was awarded $3 million contract to install integrated voice and data transport network for State University of New York health center; other installed systems include California State University and University of Massachusetts.

Ericsson is very active of U.S. market for cellular system infrastructure equipment, primarily switching. In 1989, formed joint venture with GE to produce cellular phones, mobile radio products and Mobitex mobile data communications systems. Venture, known as Ericsson GE Mobile Communications, Inc., is 60 percent owned by Ericsson, 40 percent by GE. In late 1989, Ericsson established new company, Ericsson Mobile Data, Paramus, NJ, to supply, install and maintain Mobitex system. Ericsson is partner in American Mobile Data Communications venture to build and operate first nationwide 2-way all-digital Mobitex mobile radio network, linking top 50 U.S. specialized mobile radio systems.

October 1990 announcement of major order received from McCaw Cellular and Lin Broadcasting made Ericsson leading supplier of cellular equipment in U.S., surpassing Motorola and AT&T. With new order, to replace Motorola equipment in New York-New Jersey area, Ericsson will have cellular systems in nine of America's 13 largest cellular markets; approximately 2.3 million U.S. cellular subscribers will be served by Ericsson equipment.

Ericsson GE Mobile Communications opened research and development center in Research Triangle Park, NC in late 1990. R&D center will develop and commercialize digital cellular telephones and base stations for the North American market. Initially employing about 50 American and Swedish engineers, center is expected to grow over next several years.

Elsevier (Netherlands), owns several traditional and electronic publishers in U.S. Holdings include Congressional Information Service, which specializes in U.S. government and congressional information publications and databases, and real estate data companies Real Estate Data and Damar. Growth of U.S. operations (32 percent increase in American publishing revenues between 1987 and 1988) prompted formation of two new business groups: Elsevier Information Systems and Elsevier Business Press.

VNU BV (Netherlands), owns Disclosure, one of largest and most widely available U.S. business information database publishers.

N.V. Philips (Netherlands), generates 20 to 30 percent of total revenues through U.S. sales, mostly of consumer electronics. Plans to aggressively increase its stake in U.S. to about 50 percent by concentrating on improving its standing in information technologies markets; will increase already significant U.S. manufacturing base accordingly. Philips is largest European manufacturer of semiconductors and has healthy stance in U.S. market via acquisition of Signetics.

Thyssen-Bornemisza Inc. (Monaco), owns Predicast, one of largest and most comprehensive U.S. business and defense information database publishers.

International Thomson Organization Ltd (Canada), established presence in U.S business information services market through acquisition of U.S. service and software firms. In 1986, acquired Business Research Corp. developer of IvestText and First Call (leading on-line financial database and equity research network) and Technical Data Corp., publisher of financial information and developer of software for institutional investment community. Companies are grouped with other holdings under "International Financial Networks Group" known as "Infinet."

EXAMPLES OF FOREIGN COMPANY ACTIVITY IN U.S. MARKETS CLOSED TO THE BELL HOLDING COMPANIES

Company, country, U.S. business activities

Hitachi, Japan, manufacturing computers and telecommunications equipment.

Matsushita, Japan, manufacturing electronic and communications equipment; research and development of computer & communications technologies.

Fujitsu, Japan, research and development of digital central office switch technolog; manufacturing communications equipment; software development.

NTT, Japan, data communications services; fiber optic hardware.

NEC, Japan, manufacturing computers, semiconductors; communications equipment, and integrated systems; research and development of communications systems software and home information systems technology

KDD, Japan, telecommunications products and services; secure computer, communications, data centers; packet switch network, value-added network services.

Nintendo, Japan, interactive information service network.

Recruit, Japan, information management and telecommunications services.

Toshiba, Japan, manufacturing telecommunications equipment sofware development.

Ricoh, Japan, manufacturing office & communications equipment.

Mitsubishi, Japan, manufacturing telecommunications equipment.

Siemens AG, Germany, manufacturing of wide range of telecommunications/automation equipment; communications research and development.

Deutsche Bundespost, Germany, marketing videotext packet switch network, value-added services.

France Telecom, France, long distance data communications; videotext information and directory services; packet switch network, value-added network services.

Groupe Bull, France, manufacturing computer equipment.

Alcatel NV, France, manufacturing telecommunications equipment.

British Telecom, U.K., electronic database/information services; nationwide value-added network; computer/communications systems integration and equipment manufacturing; interLATA automatic cellular services.

Cable & Wireless, U.K., long distance telephone service throughout U.S.; enhanced data network services.

Hawley Group, U.K., remote electronic security services.

L.M. Ericsson, Sweden, manufacturing of communications equipment; integrated communications network systems; digital public mobile data network; digital cellular research and development.

Elsevier, Netherlands, electronic and traditional publishing; U.S. government/congressional information online databases.

VNU BV, Netherlands, electronic and traditional publishing; U.S. business and; financial databases.

N.V. Philips, Netherlands, manufacturing of electronic/microelectronic equipment and components.

Thyssen-Bornemisza, Monaco, electronic publishing/information services; U.S. business and defense information database.

Int'l Thomson Org., Canada, electronic and traditional publishing; on-line financial database and equity research network; software development for institutional investment community.

Mr. HOLLINGS. I thank the distinguished Chair, and I will continue to highlight.

Fujitsu is among several companies negotiating with AT&T to acquire minority stake in Unix Systems Laboratory, an AT&T subsidiary. I emphasize that because AT&T is wheeling and dealing free as the evening breeze with market forces. They are the ones coming in and saying, oh, boy, you have to watch those Bell Cos. They are the ones who testified, do not control them, let the market forces operate.

Now they have a so-called monopoly. In essence, because of their very size, financial worth, they want to continue it and deal with themselves. Whereby, this particular bill has provisions against self-dealing, auditing, and everything else of that kind. But they do not want that for themselves. They just want that for the Bell Operating Cos.

NT&T, that is Nippon Telephone & Telegraph, employ 7,000 worldwide. They had $2.7 billion in revenues in 1989. They own 50 percent of NT&T International which established the Dynamic Loop Corp. in Delaware. We have to search these things out and find out where they have their communications projects. But they are heavy in here. They are a major investor with Alcoa Fujikura, in my back- yard, Spartanburg, making fiber optic hardware for assembling communications network.

NEC Japan has 8 percent already of the North American office telephone switch equipment market. NEC operates four manufacturing plants in the United States. Not long ago, they increased their capability of specialized semiconductor design centers. They opened up a research facility in Irving, TX. In November 1989, the Advanced Switch Laboratory developed broad band hardware and software for the central office and customer premises equipment. Of course, they also are working with AT&T for a stake in the Unix Systems Laboratory.

In May 1990, they opened a $25 million research facility in Princeton, NJ, and they have already employed 100 persons there. Half will be researchers, several scientists already hired from AT&T's Bell Labs. You will hear Senators from time to time say we still have Bell Labs. It is being denuded; it is being taken away; it is being hijacked by the foreign investors coming into this country and NEC is one of them. They are starting it right next door and giving the scientists better conditions, I take it, better pay, what have you. They will be running it right here under our noses. But we are in charge; we have antitrust provisions; we do not want any predatory practices, and we do not want any price fixing. The dummy Congress is sitting around losing the industrial backbone of the United States of America while we think we are in charge, and we are not.

Kokusai Denshin Denwa from Japan, has 25 percent of the New York-based firm of Telehouse International. Telehouse is the leading provider of super secure disaster-proof computer, communications, and data processing centers for the financial industry. They have a $35 million center on Staten Island. I will leave the rest of the summary.

Ricoh, of course, from Japan, has opened a $28.5 million plant outside of Atlanta, GA last fall, and they plan to increase their manufacturing presence.

The Recruit Co. are also in New York City. Toshiba of Japan began manufacturing telephone and telecommunications equipment for the United States market in Irvine, CA. They just moved their manufacturing from Japan in an effort to avoid imposition of the import duties and the antidumping suit that had been brought. They added 103,000 square feet to their plant in Irvine to accommodate the manufacture of PBX's and they are the major U.S. personal computer assembly facility. So they are working with AT&T on the UNIX Systems Laboratories. They are also into high definition television, as we all know, and this arrangement was made in April 1990 under the name of Toshiba American Consumer Products, Inc.

Mitsubishi Japan, a subsidiary of Mitsubishi Consumer Electronics, that particular subsidiary manufactures mobile telephones. They have a plant in Georgia and the output is expected to be around 40,000 mobile telephones by March 1992.

Siemens, Germany has launched a concerted effort to increase its presence in the United States by acquiring over 30 United States companies. They took over 80-percent interest in GTE's Communications Systems Transmission Product Division. They acquired for $165 million full control of TelPlus Communications, the largest U.S. independent interconnect company back in 1987. Then they paid $1 billion for ROLM, IBM's telephone equipment manufacturing arm in 1988. Siemens Communications, Inc., of Boca Raton got into a joint venture with Stromberg-Carlson, that has gone British, and they will have 4,000 employees down there. They will develop, produce, and market computerized public telephone switches, packet switching, and transmission systems.

Mind you me, Mr. President, none of this separate subsidiary, none of this provision of you have to have domestic content manufactured all here unless you can prove it is unavailable, nothing like that. They can do as they will, finance as they will, buy from each other as they will. We have a highly restrictive measure in S. 173 on seven very, very competitive entities.

These that I list have none of that. They are into the open market and have taken us over and are sending us to the cleaners. Deutsche Bundespost Telekom in Germany; France Telecom. They provide long distance data communications. Minitel Services is a joint venture with Minitel MSC and Infonet.

Alcatel of France—their recent acquisition of the United States fiber and cable business. It makes Alcatel of France the third largest supplier in the United States. It began manufacturing key systems in PBX in Mississippi and a memo here outlines its particular endeavor.

Groupe Bull of France—they purchased Zenith Data Systems for 635 million bucks.

You can go down and see how they are gaining U.S. market share.

British Telecom—Dialcom of Rockville, MD, providing even services to the United States congressional correspondence system, is into the market correspondence.

British Telecom reached agreement with McDonnell Douglas to purchase Tymnet, the second largest provider of value-added network services with revenues of $250 million. They say they purchased it for $355 million. They have plans to develop and market and manufacture a broad range of data communications equipment.

BT is backing its entry into the U.S. data communications market with also a $20 million research and development effort.

I keep mentioning research and development. You will find in my formal statement that the average investment in R&D is somewhere around 8 or 9 percent. And the Bell Cos., since it does not pay 1.3 percent, our competition is doing it because they can profit by it. They can explore, they can get those particular advanced services. They can serve themselves with it and everything else.

But we are stultifying, putting a wet blanket, if you please, on research in America with this continued practice of the modified final judgment of forbidding manufacture. It is as simple as that. That is why all these large entities that are coming in are also setting up their research facilities to get into that particular market and be downfield of the competitive curve so they can maintain in that market.

Of course, BT purchased a 22-percent stake in McCaw Cellular Communications and they have 30 percent of the U.S. mobile communications market including cellular radio, paging, and digital cordless communications.

We have L.M. Ericsson from Sweden. They have assets in the United States of about $320 million, and have about 5 percent of the U.S. PBX equipment market, and are aiming at 10 percent. They are becoming a major player here in integrated communications systems business. In the spring of 1989 they were awarded a $3 million contract to install integrated voice and data network with the State University of New York, California State, and University of Massachusetts. The venture known as Ericsson GE Mobile Communications, Inc., is owned 40 percent by GE, 60 percent by Ericsson. And they are buddy enough, trying to replace Motorola.

I can tell you here and now, as long as we can continue it, we ought to call the modified final judgment, a foreign takeover entity act, to put the United States out of business.

It is not complicated at all, but the colleagues have not noticed this. We are letting it pass by, all in the name of not having any antitrust practices or self-dealing or predatory prices.

The FCC now does have computers. They have a system that the telephone companies have to comply with. They can easily, with their computers and their new systems now for auditing—which we could not get heretofore before the 1980's—because I worked in this field for the last 24 now going on 25 years as a member of the Communications Subcommittee of Commerce—we could not get anything out of AT&T. Now we have the rules, the systems, the regulations, the computers. They can have the audits. They are audited. The States can audit and should audit, and everything should be aboveboard and could be seen and observed, audited and complied with.

But while we have all of that going on, trying to get our own companies in the manufacture under those particular restrictions, very severe restrictions, foreign entities continue on like gangbusters.

They also, Ericsson GE, opened a research and development center in the research triangle in North Carolina last year. They will develop and commercialize digital cellular telephone base stations in the North American market. They employed initially about 50 American and Swedish engineers and, of course, it will go and grow as you can see.

So, Mr. President, you have Hitachi in manufacture, Matsushita, Fujitsu, NTT, NEC, KDD, Toshiba, Ricoh, Mitsubishi, Silmens, Groupe Pull, Alcatel, Cable & Wireless, L.M. Ericsson, M.V. Philips from the Netherlands manufacturing electronic and microelectronic equipment. The list is replete.

When we understand this, Mr. President, we begin then to take the cloud from our eyes and the bit from our teeth, bent going down the road to antitrust, antitrust, antitrust, like we are regulating business for consumers, and begin to sober up and understand that we are the ones denying the consumers the advanced technology because we are denying the American entities a chance to do research, develop, and manufacture. They are the ones that have been built up by the American consumers, by the American taxpayers and otherwise and by this blinded policy, forced to go overseas and develop Hungary and Moscow and New Zealand and Argentina, and all the other countries.

Yes, we had a good debate last week, and we are going to continue with that debate because we do not have a trade policy in the United States. More than that, we do not have a research and development policy in the United States because there is a mindset over the administration about industrial policy.

When I come here and the President signs a minimum wage bill, he no longer is pure. He went along with industrial policy. What he said was, I do not care what your capability, capacity or talent is; in America you are worth so much per hour. We invaded the market with our tax provisions. We invaded the free market with the Export-Import Bank and so forth that we set up. We invaded in various other ways.

So we are not invading the market. What we are trying to do is meet market forces and let us unleash their dynamic capability both financially and talent-wise to manufacture.

AT&T our opposition—we might as well identify it in the first instance, because we can tell it. You see this bill was reported out last year, again this year by our committee, after all the hearings, on a vote of 18 to 1.

My understanding in coming to the floor now is that perhaps Members would have a stretch-out kind of policy of amendment after amendment after amendment to try to bog it down so nobody would be for the bill with all kind of nit-picking things like looking for rural amendments. Everybody wants to do something for rural areas. We have looked out for the rural telephone operatives in this country. This particular Senator has. You want to look out for the matter of audits. Let the States audit.

If we want to go further about the cross-subsidization, let us look at it and see that it is iron clad.

No one else is forbidden from buying for themselves. We put restrictions in here that you should have it open and aboveboard, offer in any purchase you make, all other manufacturers to come in, and buy and sell on the same basis that you sell to any other competitor and so forth.

So all of those have been worked out in the committee, but they will try to revisit them like they have thought of a new idea. Their new idea is to kill the bill. We know that. We understand it. We will be as tactful as we can and as deliberate as we can. But I do not think we ought to be taking up the time of the Senate revisting time and time again a measure we have worked on now for many years and reported out not only last year but again this year.

I would like to emphasize at this particular point, Mr. President, the various restrictions we have here on safeguards in S. 173. My colleagues will not think we have a bill and we are going to ram the bill through, and we are not looking out for consumers and the rates might go up, and all of those particular arguments be made.

We have in here "no joint manufacturing." In other words, RBOC's cannot manufacture in conjunction with one another. All of these entities I have listed can and do and continue to do so. I have listed those coming in with AT&T, who is opposing this bill. They are coming in time and again, wheeling and dealing, buying out each other, and everything else like that.

We say that these Bell Operating Companies cannot manufacture in conjunction with one another. They must create seven independent manufacturing entities and compete with each other, as they are doing right now in world market business the world around.

They must have separate affiliates. The Bell Operating Cos. must conduct all of their manufacturing activities from separate affiliates. The affiliates must keep books of account for its manufacturing activities separate from the telephone company, and must file this information publicly. How are you going to beat that?

We debated that out in the committee. We want to make sure they were not going to play games and cut corners. Nippon Electric financed, subsidized, and protected. Try to get in over there and compete with any of these entities. They are competing.

No, this is not going to really forestall entirely foreign investment in the United States of America. They will still come, because they will still have many advantages; because we will have

these kinds of safeguards. I would like to clean them all out and let it all go.

Yes, we do have common carrier requirements of these Bell Operating Cos. Each Senator—and this Senator—wants to make certain that we are not paying the bill for manufacture, venture, and subsidizing particular entities through increased telephone rates.

We have another provision in here against self-dealing. No self-dealing. Bell Operating Cos. may not perform sales advertising, installation, production, or maintenance operations for its affiliate. They cannot advertise, they cannot install, they cannot produce or maintain for its affiliate.

They must provide opportunities to other manufacturers to sell to that telephone company that are comparable to the opportunities that it provides to its affiliates. RBOC may openly purchase equipment from its affiliate at the open market price.

And we have one thing in here and, of course, under the law, on a private cause of action, it ought to be mentioned at this point that all of our laws say go to the particular administrative body. You go and apply, if there is a violation, and exhaust your administrative procedure at the Federal Communications Commission, in this particular discipline, to make certain that we do not turn the courts into an administrative body. That would apply, ordinarily, to all of these.

We went one step further with the manufacturer, if they thought they were being discriminated against and not being applied to, the manufacturer—not an individual fellow who is mad with his telephone rates, because we would clutter up the courts and get nothing done—can proceed with a private cause of action.

That was the one exception we made. We are not making the exception, of course, for the individual private right of action.

It sounds petty, but if you think on it, after a while, you will understand that the orderly procedure is to make your complaint, and the FCC follows it up, and you have the expertise paid for by the taxpayers, and the investigation and the proceeding itself taken care of by the public. You do not say: I am a little individual citizen and do not have money enough for a lawyer. The procedure is there in every instance.

We have even gone further here with respect to manufacturers. No cross-subsidization. Bell Operating Cos. are prohibited from subsidizing its manufacturing operations with revenues from its telephone service. Those records are kept, and they are public and subject to audit.

Domestic manufacturing requirement. The Bell Operating Cos. must do all of this manufacturing within the United States.

Remember the thrust; remember the intent of this particular measure: To come home to America. We are now opening up the market and giving you a level playing field as best we can. We still have it somewhat tilted in favor of the consumers and in favor of antitrust concerns, and those things. We do not totally level it.

But they must do all of their manufacturing here, because we are trying to create that manufacturing capability in the United States. There is no question about that. That is the way it is.

As old Walter says: The world around, everybody else is doing it. Everybody else is taking these national entities, from Siemen's, from Ericsson, and all of these other particular companies who are all taken care of by their country, and say at least we want to get the manufacturing done here in the United States. We do not want to take all of this and let them setup over in Singapore.

This Senator is particularly sensitive. I competed, as Governor, on Western Electric, in making the telephones, with my distinguished former colleague, Gov. Luther Hodges of North Carolina. We competed on two of them: Western Electric and Eastman Kodak. I won out on Eastman Kodak and got it in South Carolina, and he won out on Western Electric.

I am the ultimate winner, because I saw Western Electric in downtown Singapore when I visited over there. That is where they are making all of this hand telephone equipment. So the idea here is not to further subsidize manufacture out of the United States, but rather to reverse that particular trend.

Limitation on equity ownership. The Bell Operating Co. fought like a tiger, and I guess they might still fight. They would like to own all of the company, and they do not like to have anybody have outside investors, or anything else of that kind. But we say that they may own only 90 percent of the equity of its affiliate. That is, 10 percent must be made available to outside investors.

Of course, I cannot do that, as a member of the Commerce and Communications Subcommittee. I would like to have part of that 10 percent. I know how these people operate. They are the best of corporate citizens. I know my opposition here will start to point to a couple of infringements that came out in the news in the last 2 years. All America, when they get competitive, get competitive. That is, all we politicians singsong. They overstep, from time to time, the bounds. But there is no question that these seven companies are about the seven finest operating companies you are going to find in all of the United States. If you get them setting up a separate subsidiary, they know that they can move forward in the development of the technology and in the advancing of those particular services through technology to the consumers.

We have to complete the loop and change the mentality of the senatorial mind here that this is something against consumers; this is for consumers. We are lagging behind in many services in this country of ours, because it does not pay to get into them. That is all it is.

Even though you have common carriers, the common carrier requirement does not say, now you put in advancements, and so forth. You can sit there and get your rate and continue to sit there and get your rate, and nobody else is going to come in because it does not pay for them to come in.

Limitation on debt. The affiliate only may secure debt from the financial markets separate from the Bell Operating Co. No creditor shall have recourse to the assets of the telephone company.

We consider the telephone company as common carriers and books and financial worth and everything else separate from that affiliate and its manufacturer. If it goes broke and everything else, it does not reflect on my telephone rates and my telephone company.

Protections for the small telephone companies. The Bell Operating Cos.' manufacturing affiliate must make its equipment available to other telephone companies without discrimination or self-preference as to price, delivery, terms, or conditions.

And then, disclosure of network information. The Bell Operating Cos. must file publicly all technical information concerning that telephone network.

You cannot get any more open than that. Someone may want to come and say you could not buy at all from an affiliate. I hope it is not the AT&T crowd coming around here that buys from itself regularly. The majority of its equipment is bought from itself, and it has not affected the long distance rates, and so forth. So we can watch those; they are set.

But what we require here is, as stated, that the Bell Operating Cos. must file publicly all the technical information concerning their telephone network. And those are the particular safeguards that we have included in there.

Mr. President, I see a distinguished colleague perhaps want to take the floor.

Mr. GRASSLEY. No.

Mr. HOLLINGS. Mr. President, I do not want to start a quorum call. There are a lot of other things we can explain. Let us see, Mr. President, while we are putting our colleagues on notice. Let me discuss practices in other countries; the requirements of other countries. Under a new EC directive, the European Community origin preference excludes bids with less than 50-

percent European Community content in telecommunications.

These are the foreign trade barriers. This is your competition. Do not come around here acting like you are running the little U.S. market and it is all insulated and you have control. The foreigners have control, I tell you that right now. They have their own FCC they call MITI and all those other entities that you will find in Europe, and now we will call it the EC. The European Community talks about free trade with Europe. Try to get in over there. They have 50-percent European Community content in telecommunications. We would not dare countenance that kind of thing for all of our telecom market, but that is what they have and that is our competition.

The Canada procurement policy, is the preferred supplier relationship between Bell Canada and Northern Telcom. We have Northern Telcom. It has plants here. On the increased export market, the diminution in the balance of trade that is down to a $700 million deficit in the balance of communication trade. We should hail it. We should understand it. And the reason we hail it is because we do not understand it. If we understand it, that is what happened with all these foreign entities coming in.

For agencies not covered by the free-trade agreement, Canada maintains a 10-percent price preference for Canadian content in telecommunications. Members ought to understand that. This is a very dynamic, very competitive, very subsidized, very controlled international market with the Government on the side of the communications industry in that country. We have a very controlled communications market in the United States of America with the Government against the telecommunications companies in this country.

We are trying our best to get the Government on the side of manufacture, on the side of industry, yes, on the side of jobs, yes, on the side of economic security, and prevailing in the economic war. We have gone, with the fall the year before last of the Wall in Europe, from the cold war to the economic war, the trade war, the industry war, the production war, not just a little bit here jobs, a little bit there jobs; they are basic industries. Let me start with textiles.

I started with this in the fifties when 10 percent of the clothing in this Chamber would have been represented by imports. Now more than 60 percent is represented by imports. It gets to the point where it does not pay to invest and be competitive. You know, we smart politicians running around beating on peoples' heads, got to be competitive and more productive, we continue to appoint 10 more committees; we are about the most unproductive, uncompetitive entity you are going to find, falling over each other around here. Eighty-two percent of the shoes on the floor here are imported.

We are going out of business also in communications, and I am trying to stop it. I am trying to get us competitive here, and I am looking at my competition. The provincial quasi-government corporations follow a "buy Canada" policy. Unfortunatley we do, too. We have a "buy Canada" policy with Northern Telcom, a very fine company, very fine executives, very friendly people. I would be friendly people if I was making out like Gangbusters like they are, I tell you that right now. They do not have anything to gripe about.

But with a measure of this kind and the sobering up of Government in Washington, DC—what is not producing and not competing is not the hinterland. I can give you example after example of the highest technology; I know it, I see it, I have been visiting with it, and yet we still continue to go out of business on account of us right here in Washington. I visited week before last T.M. Brass in magnetic resonance in my own backyard. They export 50 percent of what they make.

I can go right on down the list. They talk about how the Japanese work harder, they have a work ethic. You cannot beat the American production worker; I do not care what they say. I have watched them; I have seen them. I have seen the Japanese come, Japanese and West Germans, for automotive electronic engineering, study 22 countries, and, bam, come to South Carolina, not to Japan, not to Germany, because of the productivity and the skills we have in my own backyard. And in this past year now we have taken over from Toshiba the magnetic resonance indicators, the MRI, the health equipment, where we have now a GE plant in Florence, SC, and we export over 50 percent of it. We are going to take over the Japanese market—until they get into the health market like they are getting into the communications market. Where the Government has not gotten into it yet, we are still surviving and beating them. But bit by bit, step by step, takeover by takeover, they are moving very quietly, very effectively into my backyard, into your backyard, and we are inviting them in. Any Governor of any State in America worth his salt has an office in downtown Tokyo. It is delightful to visit, on the one hand, you are out there trying to get the investments. We have many fine Japanese industries, and I emphasize we are not bashing Japan or Germany or the Swedes. We are not bashing anybody foreign; we are bashing Washington, DC, trying to wake them up, give them a wake-up call.

The United States is under siege by a host of Japanese, European, and other multinational firms who are exploiting the openness of the United States market to our great disadvantage. These foreign companies recognized some time ago what the United States has not—the market for communications equipment is now a global one, and we are not in it. In this high-stakes battle over world market share, the United States has only one major participant—AT&T.

At the same time, the United States bars seven of its largest and most productive companies from designing, developing, or manufacturing any form of communications equipment. These companies have tremendous assets, experience, and expertise that could bring enormous benefits to U.S. workers and consumers if they were allowed to manufacture. To continue this restriction is simply contrary to America's best interests. It is time for the U.S. Congress to take control of our economic destiny and lift the manufacturing restriction on the Bell Operating Cos.

This legislation has tremendous bipartisan support. S. 173 now has 25 cosponsors, including Members from both sides of the aisle. The Commerce Committee reported this bill to the full Senate by a vote of 18 to 1. Last year, the committee also voted a similar bill to the Senate by voice vote. It is clear that an overwhelming majority of the Senate is prepared to take up and pass this legislation.

Further, almost every sector of the American public believes this restriction should be lifted. The Communications Workers of America support the bill and believe that this legislation will provide thousands of jobs for Americans. Organizations representing the deaf community, the disabled community, and older Americans support the bill because it will lead to greater innovation and better products to suit their communications needs. Over 40 small manufacturers believe that allowing the Bell Cos. to provide funding to start up manufacturing companies will promote economic development and small business opportunities. A number of policymakers and scholars support lifting this restriction, including Henry Geller, the former General Counsel of the FCC, and Alfred Kahn. The consumers who have written to my office in support of this bill outnumber those who oppose it by 10 to 1. Clearly, the public is demanding that Congress lift this restriction.

Mr. President, the current manufacturing restriction on the Bell Cos. is an old-fashioned policy that has outlived its usefulness. The manufacturing restriction originates from an antitrust case that was filed against AT&T 17 years ago. In that case, the Department of Justice alleged that AT&T had used its monopoly over telephone service to discriminate against competing equipment manufacturers. While the case was being tried, the Department of Justice and AT&T reached an out-of-

court settlement under which AT&T agreed to relinquish control over the 22 Bell Operating Cos. This settlement agreement, which became known as the Modification of Final Judgment, or MFJ, also banned the 22 Bell Cos. from manufacturing communications equipment. The district court accepted the agreement and has continued to enforce it.

THE MANUFACTURING RESTRICTION IS UNFAIR

There are several problems with continuing this manufacturing restriction in place, but one of the most obvious is its unfairness. Indeed, one must question why the manufacturing restriction was allowed to stand in the first place. The Bell Cos. were barred from manufacturing even though the district court never ruled that AT&T had, in fact, committed any violation of the antitrust laws. Further, the Bell Cos., which had not yet been created, had no opportunity to comment on the proposal to ban them from manufacturing before the agreement became effective. AT&T, a major manufacturer and one of the two parties responsible for imposing the restriction, had a clear self-interest in keeping the Bell Cos. from competing with it in the manufacturing market. Meanwhile, the Department of Justice has changed its position and now supports lifting the restriction.

Furthermore, no other telephone service provider in the world is similarly barred from manufacturing. AT&T, the dominant provider of long distance service in the United States, is one of the largest manufacturers in the world and buys almost all its own equipment from itself. There are 1,400 other telephone companies in the United States; not one of them is barred from manufacturing. In fact, no other country bars its local telephone companies from manufacturing communications equipment.

THE COURTS, NOT THE CONGRESS, ARE IN CONTROL

The enforcement of this manufacturing ban is inconsistent with the traditions of American Government. Because of the peculiar history of the MFJ, a single Federal court judge is now responsible for setting U.S. communications policy. Congress is not in control, and neither is the President. A single Federal court judge, with a few law clerks and a large case load, dictates the use made of over one-half of the communications assets in this country. At the same time, foreign companies, backed by their governments, are buying American companies and taking an increasing percentage of our market share.

THE MANUFACTURING RESTRICTION IS UNREASONABLE AND ARBITRARY

Furthermore, the manufacturing restriction imposes unreasonable and arbitrary limits on the Bell Cos.' ability to manufacture. These restrictions prevent the Bell Cos. from taking advantage of the efficiencies between providing telephone service and manufacturing telephone equipment. As a result, the Bell Cos. cannot bring new and better products to the market that will benefit all Americans.

The practical effects of the manufacturing restrictions are almost ludicrous. For example:

First, under current law, the Bell Cos. can manufacture telephone equipment in foreign countries for sale overseas. But the law bars them from performing any manufacturing in the United States for domestic customers. This forces the Bell Cos. to invest their capital overseas, as they have done in Europe, Mexico, New Zealand, and elsewhere.

Second, current policy allows these companies to engage in the design and development of the telephone network, yet they cannot design and develop equipment to be used in that network. This removes any possible efficiencies of operating in these two markets.

Third, the success of most high-technology industries is founded on strong research and development activities that usually comprise between 6 and 10 percent of revenues. Under current law, the Bell Cos. can perform research but they cannot engage in development. The uncertainty of the line between research and development and the fear of sanctions discourages the Bell Cos. from performing any research at all. As a result, the Bell Cos. spend only about 1.3 percent of their revenues on research.

If there was any justification for banning the Bell Cos. from manufacturing 10 years ago, they have long since disappeared. The manufacturing restriction makes absolutely no sense in today's world. Let me outline briefly some of the benefits of allowing the Bell Cos. into manufacturing:

1. AMERICAN COMPETITIVENESS

The U.S. competitive position in high-technology markets is severely at risk. This decline is apparent in almost every sphere of the market. In research and development, patents, trade, and world market shares, Japanese, West German, and other foreign companies are outcompeting the United States in the international market. The United States faces a challenge to its world leadership position as never before.

Some basic facts bear out this point. Seven years ago, there were 15 major switch manufacturers in the world market, 3 of them American. Today there are only eight—three from Japan, three from Europe, one from Canada, and only one from the United States, AT&T. From a $1 billion surplus in 1981, the U.S. trade balance in communications equipment has now dropped to a $700 million deficit.

Total U.S. spending on research and developed nations. According to the National Science Foundation, the United States spent 1.8 percent of its GNP on nondefense R&D last year, while West Germany spent 2.6 percent and Japan spend 2.8 percent. In communications, the largest European and Japanese firms have increased their research and development spending by 18–20 percent per year. AT&T has increased its spending by about 6 percent per year.

While the U.S. standing has declined, our foreign rivals have prospered. Annual foreign investment in U.S. high-technology industries has increased from $214 million in 1985 to $3.3 billion in 1988. In the 6 years since the divestiture of AT&T, 66 different U.S.-based computer and telecommunications equipment companies have been bought by or have merged with foreign firms.

This decline in the U.S. leadership position has tremendous consequences for all Americans. The erosion of critical U.S. industries means fewer jobs for American workers. Increasing investment in the United States by foreign companies means that profits from American activities flow overseas. The lack of an industrial and high-technology base within the United States threatens our military capabilities and our national defense. The economic, social, and political ramifications of the continued deterioration of U.S. strength in these crucial industries could be devastating.

Lifting the manufacturing restriction on the Bell Operating Cos. will help to reverse this decline. The Bell Cos. are among the top 50 corporations in America. Together, they earn about $80 billion in annual revenues, employ almost 2 percent of the American work force, provide telephone service to 80 percent of the Nation's population, and control over one-half of the United States telecommunications assets. They have the knowledge, the resources, the experience, and, perhaps most important, the desire, to be strong players in the world manufacturing market. How could the United States allow its world leadership in high technologies to run aground while 7 of its largest and most capable companies are kept out of the game?

2. JOBS

Since the divestiture, AT&T has closed down or reduced its work force at 33 manufacturing plants, resulting in a loss of 60,000 manufacturing-related jobs. At the same time, AT&T has signed 18 joint venture agreements with foreign manufacturers and has opened 7 new manufacturing facilities overseas. This drain of American jobs not only harms the American worker, it also harms our industrial competitiveness. Trained and skilled workers are essential if the United States is to continue its role as the world's technological leader.

The Communications Workers of America firmly believes that lifting the manufacturing restriction on the

Bell Cos. will promote thousands of new job opportunities in the United States. The domestic manufacturing provision requires the Bell Cos. to conduct all their manufacturing here in the United States. Whether the Bell Cos. begin to manufacture on their own, whether they provide seed capital to small entrepreneurial businesses, or whether their manufacturing activities increase the demand for domestically made components, lifting the manufacturing restriction is certain to result in significant numbers of new jobs.

3. RESEARCH AND DEVELOPMENT

The manufacturing restriction places a significant constraint on the Bell Cos.' willingness and ability to engage in research and development. As interpreted by the courts, the manufacturing restriction allows the Bell Cos. to engage in research but not design or development. The line between research and development is so arbitrary and unclear that the Bell Cos. are afraid to engage in any research at all for fear of crossing that line.

Further, because the Bell Cos. cannot turn the fruits of their research into a marketable product, they cannot earn a profit from that research. Thus, the Bell Cos. have little incentive to conduct any research at all. As a result the Bell Cos. spend only 1.3 percent of their revenues on research, while most foreign manufacturers spend between 6 and 20 percent of their revenues on research.

Lifting the manufacturing restriction will give the Bell Cos. incentives to conduct research, since they will be able to turn that research into profitable products. Lifting the restriction will also eliminate the arbitrary, unclear, and unnecessary boundaries between research and design and development.

4. INCREASED INVESTMENT IN THE UNITED STATES

Foreign firms have dramatically increased their purchase of U.S. high-technology firms. Since the divestiture, foreign firms have purchased or merged with 66 different high-technology U.S. firms. In just the last 2 years, the percentage of U.S. manufacturing employees working in foreign-owned companies grew from 8 percent of the U.S. population to 11 percent.

Many of these companies could have been purchased by the Bell Cos. if not for the manufacturing restriction. The manufacturing restriction bars the Bell Cos. from owning any equity interest in a manufacturing concern. Further, it is unclear whether a Bell Co. can loan capital or have any financial relationship with a manufacturer. As one manufacturer testified at the hearing before the Commerce Committee, the manufacturing restriction implicitly restricts the business activities of every telecommunications manufacturer in America.

As a result of the manufacturing limitations, small, entrepreneurial companies must often turn to foreign-based companies for necessary capital. Most of these small manufacturers would rather work together with American-based Bell Cos. if they were allowed to do so. For this reason, over 40 small manufacturers of communications equipment have expressed support for this legislation. Lifting the manufacturing restrictions would free up the Bell Cos.' capital sources and encourage greater U.S. investment by U.S. companies.

5. INCREASED SHARE OF THE INTERNATIONAL EQUIPMENT MARKET

The U.S. share of the international equipment market is in severe decline. Even the opponents of this legislation acknowledge that the U.S. market share has declined in almost every sphere of communications equipment. The U.S. manufactures no fax machines and controls less than 20 percent of the world market for central office switches, and these figures include equipment manufactured in the United States by foreign-based companies.

The Bell Cos.' entry into manufacturing should have a positive impact on the total market share controlled by U.S. firms. The BOC's have an intimate knowledge of the U.S. market, telephone standards, and business economics. Further, there are substantial efficiencies between the operation of the telephone network and the design of equipment to be used in that network. Such efficiencies include the sharing of joint costs, the knowledge of the networks and the needs of customers. The entry of the Bell Cos. will undoubtedly stimulate greater innovation and customer demand for communications products in a way that will advantage all equipment manufacturers.

THE DOMESTIC MANUFACTURING PROVISION

Some may ask how we can be sure that this bill will benefit the United States? How do we know that the Bell Cos. will not go overseas to conduct their manufacturing? The answer is that this bill includes a strict domestic manufacturing provision. If they manufacture, the Bell Cos. must conduct all their manufacturing activities within the United States. Further, the Bell Cos. cannot use more than a certain percentage of foreign-manufactured components in the products they manufacture. This provision was negotiated by the Bell Cos. and the Communications Workers of America and has the complete support of both groups. I believe that a domestic content provision such as this is essential to ensuring that the Bell Cos.' potential manufacturing activities benefit the U.S. worker and economy. I applaud the representatives of both organizations for reaching this agreement and have included their agreement in this bill.

INCREASED SAFEGUARDS HAVE REDUCED THE THREAT OF ABUSE

Let there be no mistake, however, about the premise on which this bill is based. I fully understand that these Bell Cos. continue to exercise a substantial degree of market power over local telephone services. Many persons are concernd that the Bell Cos.' dominance of these markets could give them incentives to engage in unlawful cross-subsidization and self-dealing.

For these reasons, I have included in my bill a host of safeguards designed to prevent any kind of unlawful and anticompetitive activity. In conducting their manufacturing activities, the BOC's must comply with the following safeguards:

NO JOINT MANUFACTURING

To prevent collusion, the BOC's cannot manufacture in conjunction with one another. The bill requires that, if the RBOC's decide to manufacture, they will create at least seven independent manufacturing entities that will compete with each other as well as with existing manufacturers.

SEPARATE AFFILIATES

The BOC's must conduct all their manufacturing activities from separate affiliates. The affiliate must keep books of account for its manufacturing activities separate from the telephone company and must file this information publicly.

NO SELF-DEALING

First, the BOC may not perform sales advertising, installation, production, or maintenance operations for its affiliate; second, the BOC must provide opportunities to other manufacturers to sell to the telephone company that are comparable to the opportunities it provides to its affiliate; and third, a BOC may only purchase equipment from its affiliate at the open market price.

NO CROSS-SUBSIDIZATION

The BOC is prohibited from subsidizing its manufacturing operations with revenues from its telephone services.

LIMITATION ON EQUITY OWNERSHIP

A BOC may own no more than 90 percent of the equity of its affiliate. The remaining 10 percent must be made available to outside investors.

LIMITATION ON DEBT

The affiliate only may secure debt from the financial markets separate from the BOC. No creditor shall have recourse to the assets of the telephone company.

DISCLOSURE OF NETWORK INFORMATION

The BOC must file with the FCC full and complete information concerning the telephone network immediately upon revealing any such information to its manufacturing affiliate.

I believe these safeguards are important and necessary, and I fully intend to oversee the FCC's efforts to enforce these safeguards fully.

THE DEPARTMENT OF JUSTICE, THE FCC, AND THE STATES CAN PROTECT AGAINST ABUSE

The combined resources of the Department of Justice, the FCC, and the state regulatory agencies are certain to prevent cross-subsidization. The Chief of the Antitrust Division, for instance, testified before the Communications Subcommittee that antitrust abuse was unlikely to occur if the manufacturing restriction were lifted.

Some persons assert that the BOC's will subsidize their manufacturing operations by recovering their manufacturing costs through higher telephone rates. These people ignore the testimony of the Chairman of the FCC, Al Sikes, who testified that "claims that the FCC's safeguards are ineffective are badly outdated." He also stated that "I believe the [Communications] Subcommittee can be confident that any risks associated with Bell Co. manufacturing are both manageable and small." The FCC is the expert agency handling communications matters and is most directly responsible for protecting the public interest. If the Chairman of the FCC is convinced that this legislation will promote the public interest, the Congress can be confident that this legislation is wise.

The FCC Chairman can make this claim because of the enormous improvements that have occurred in regulation. For instance, the FCC, for the first time ever, has implemented a detailed cost-accounting system that bars the Bell Cos. from engaging in cross-subsidization. These part X accounting rules require the Bell Cos. to file with the FCC detailed cost allocation manuals, along with certification from an outside auditor that the information in the manuals is accurate. These manuals break down costs between regulated and unregulated activities. The Bell Cos. have filed these manuals for the past 3 years. This history gives the FCC and the auditors a history with which to compare future cost allocations to ensure that costs are allocated properly between regulated telephone service and unregulated activities.

Further, these cost data are now submitted in computer format that gives the FCC greater ability to monitor and evaluate changes. The Automated Reporting and Management Information System [ARMIS] computer system installed by the FCC a few years ago significantly increases the FCC's ability to oversee the telephone companies' activities.

Moreover, the FCC has expanded its own auditing capabilities. The Commission conducted 21 full-scale audits over the past year, double the number conducted in 1987. This does not include an additional 12 attestation audits of Bell Co. cost allocation manuals. In addition, the FCC has nearly tripled its budget for conducting field audits since 1987, increasing its travel budget from $35,000 to $105,000 in 1991.

In addition to these regulatory changes made by the FCC are the substantial changes made by the States. The FCC has worked hard to develop strong relationships with the State regulatory commissions that have oversight authority over the Bell Cos.' intrastate activities. Further, the Communications Subcommittee of the National Association of Regulatory Utility Commissioners supports lifting the manufacturing restriction by a vote of 13–5. These Commissioners are the State officials most directly responsible for the welfare of the telephone consumer.

CONCLUSION

In my view, lifting this manufacturing restriction is vitally important. This bill is critical to the future of the Nation's telecommunication industry and this Nation's economic future. I urge my colleagues to support this measure.

So there you are. We have the various issues covered. We will be glad to entertain the amendments as they come to the floor, and perhaps, Mr. President, if I hush a moment, we will attract some folks. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I want to compliment my chairman, Senator HOLLINGS, for doing what has been a long time coming and that is bringing to the floor of the Senate a bill to at least partially lift the court order with respect to the telephone companies.

Many people have commented for quite a period of time that the idea of a Federal judge operating a major sector of our economy from his courtroom is crazy and that we should do something about it. And yet, because of the size of the interests involved and the importance of the issue, it has become very, very difficult to legislate.

Senator HOLLINGS has done the seemingly undoable in bringing this legislation to the floor, and I want to compliment him for his contribution.

National communications policy should not be set by one Federal judge. The judicial process involves delay and leaves uncertainty in the communications industry. Detailed regulation of this industry should be the responsibility of the FCC, not a court construing an antitrust decree.

The time is right to lift the manufacturing restriction imposed on the Bell Operating Cos.

Lifting the manufacturing restriction will improve the ability of the United States to compete internationally in the telecommunications equipment market. The seven Bell Cos. represent one-half of the U.S. telecommunications industry's human and financial resources. The Bell Operating Cos. employ between 1 and 2 percent of the entire U.S. work force. They average $11 billion each in annual revenues. S. 173 will allow the Bell Operating Cos. to use their vast resources to enter into equipment manufacturing. I share the view of the Department of Commerce that the Bell Operating Cos. "can make a difference, and they ought to be offered the freedom to do so."

Moreover, the need for the manufacturing restriction no longer exists. The restriction was intended to address three specific forms of anticompetitive behavior associated with the Bell System's predivestiture manufacturing practices. S. 173 incorporates safeguards to protect againt each of these three potential abuses.

The first is the alleged effort to impede competition by giving the manufacturing subsidiary an advantage through privileged access to the technical specifications of the Bell network. S. 173 prevents this activity by requiring each Bell Operating Co. to file such technical information with the FCC anytime such information is given to its manufacturing affiliate.

The second problem is the possibility of cross-subsidizing manufacturing efforts with funds derived from the local telephone monopoly. Such cross-subsidies could create an unfair price advantage while passing on losses to the Bell Co. local customers. S. 173 requires the Federal Communications Commission [FCC] to promulgate regulations to prohibit cross-subsidies. The FCC has already implemented new accounting and affiliate transaction rules which eliminate or significantly reduce the likelihood of cross-subsidization. S. 173 requires the manufacturing affiliate to secure debt from financial markets separate from the Bell Operating Co. and prohibits any creditor of the manufacturing affiliate from having recourse, upon default, to the assets of the Bell Operating Cos. telephone company.

The third potential abuse is the possibility that a Bell Operating Co. would buy its affiliate's products instead of cheaper, better products manufactured by its competitors. S. 173 requires each Bell Operating Co. with a manufacturing affiliate to provide sales opportunities to manufacturing competitors comparable to those afforded to the affiliate. When a Bell Operating Co. purchases equipment from its affiliate, it must pay the open market price.

S. 173 does not stop here. The bill provides additional protection for manufacturers, for small telephone companies, and for ratepayers. The Bell Oper-

ating Cos. cannot manufacture in conjunction with one another and must conduct all their manufacturing from separate affiliates with separate books of account. The Bell Operating Co. may not perform sales, advertising, installation, production or maintenance for its affiliate. At least 10 percent of the equity ownership of the affiliate must be made available to outside investors. The Bell Operating Co. manufacturing affiliate must make its equipment available to other telephone companies without discrimination or self-preference as to price, delivery, terms, or conditions.

The telecommunications industry, both in the United States and worldwide, has undergone tremendous growth since the divestiture. S. 173 will allow seven of our greatest companies to use their vast resources to compete, while ensuring that no harm is done to competitors or to consumers. I support S. 173 and urge my colleagues to vote for this important legislation.

Mr. HOLLINGS. Mr. President, let me thank my distinguished colleague from Missouri, Senator DANFORTH. He has been a leader in telecommunications, both as a ranking member on our Commerce Committee and particularly as a senior member of our Finance Committee. It was because of his concern about this advanced technology and losing our leadership position in this regard that he took over and was the leader in our institution on Sematech, which was a move, as a stopgap, to try to maintain this technology. We particularly appreciated his leadership on this measure.

Once again, we emphasize this bill's balanced nature. Looking it over and studying it, I guess, yes, there has been a difference between the colleague from Missouri and this particular Senator from South Carolina, whereby I have not been enthused about what they call free trade, whereas my colleague from Missouri has been a leader for free trade. Yet we both studied this bill from every angle and made sure it had balance.

Yes, we open up the role of manufacturer to the several Bell Operating Cos. but we have strong safeguards. In essence, both the FCC—we will get it in the RECORD and refer our colleague to that—both the counsel at FCC and at the Justice Department said that the safeguards were too restrictive. But I went along in order to ensure a balanced approach.

Incidentally in 1984, the Justice Department advocated the imposition of this restriction prohibiting manufacturing by the Bell Operating Cos.—now the Justice Department supports manufacturing by the Bell Cos. In fact the Justice Department believes that this bill is going too far the other way by imposing too many restrictions. But said, no, the Congress is concerned and feels there is a need for safeguards. We are looking out for consumers.

We also look out for antitrust issues and concerns. The wisdom of all the antitrust law is not necessarily vested in the Judiciary Committee. This particular Senator is chairman of the Appropriations Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, and the Commerce Committee. We have tried to beef up and update the Antitrust Division over at the Justice Department.

I am dismayed that there are cases that sit in the Antitrust Division for 13, 14, 15 years expending huge amounts of money, and still not reach a conclusion. We have tried to be more effective and more responsive to the concerns about antitrust issues. So I do not yield to other colleagues on antitrust concerns. I too, have not only that concern, I have that responsibility.

Because we are approaching the hour when both sides of the aisle will recess for their caucus'. I want to take time to address my trade concerns. The U.S. spending on research and development is actually in decline.

The United States spends only 1.8 percent of its GNP on nondefense R&D, and Japan and Germany spend between 2.6 and 2.8 percent in communications. The budgets for research of the Bell Operating Cos. and AT&T combined grow at a rate of 9 percent but their competition in Europe is growing at 19 percent, and Japan's R&D budget is growing at 23 percent over the same period. We just combined the research budgets of AT&T and the Bell Cos. so the opponents would not say, oh, no, you have looked at the Bell Cos. but you have forgotten AT&T. We take them both together and you can see the trend concerning actual research and development compared to our foreign competitors and how we lag behind.

Most telecommunications firms spend between 6 and 10 percent of their revenues on R&D, and some spend up to 12 percent. As I pointed out earlier, and I emphasize again, our Bell Operating Cos. are only spending 1.3 percent of their revenues on R&D because if they did get into research they could not profit from it. They cannot sell their results to anyone. They cannot manufacture. They cannot profit from it, so why go down that particular road, even though you are in that particular discipline?

You would like to always do a better job but as a result of this particular national policy we guarantee that our telephone companies, as we know them, are not going to do a better job. There is no financial attraction to do a better job.

The modified final judgment prevents the Bell companies from having any incentive to engage in research and development. Under the MFJ, as they call it, the term "manufacturing" includes design and development. Thus, the Bell Cos. may currently engage in research but as a practical matter cannot engage in design or development of equipment.

This line creates a number of problems. We have the problem of uncertainty. The line between research which is permitted and development which is prohibited is an unclear line.

They fear sanctions. Researchers are afraid to get anywhere close to the line. They do not want to get into that research and find out something they worked on for a year or two or more is, all of a sudden, legally forbidden.

There is a matter of inefficiency. The Bell Co. researchers must stop their work whenever they get close to a design stage because they must turn over their work to an unaffiliated entity. This creates tremendous inefficiencies and new researchers will not have the experience and know-how on the research that has already been done.

Arbitrariness is really a concern. The MFJ permits the Bell Cos. to develop generic product standards but bars them from developing products to meet those standards. They design the company telephone network but they cannot design or develop the equipment to be used in the network.

The fear of sanctions is strong. The line between research and development is so unclear, inefficient, and arbitrary, that the Bell Cos. are afraid to do any research at all and as a practical matter, cut back and do not engage in it. The penalty for violating it can be very, very severe.

Of course, research is unprofitable. If the Bell Cos. researchers come up with a new idea, as I stated, they cannot produce a product for sale to the public. There is little potential, in other words, to recover your costs of doing research.

Industry experts believe that the path to competitiveness is toward a dynamic production mode that involves increased sharing of knowledge between researchers, manufacturers, and marketers. We in the Congress are constantly repeating that, yes, we do well, we win the Nobel prizes; but they win the profits. Supercomputers and the other things, superconductors down in Texas and the other examples that we can point out—the fact of the matter is the Nobel prize we might win here in 1990 or 1991 was for research work done back in 1978–80, 10 years ago. You are going to find by the end of the century we are not winning any Nobel prizes, they are all going to be won by our foreign competition.

Robert Reich said:

> This quiet path back to competitiveness depends less on ambitious Government R&D projects than on improving the process by which technological insights are transformed into high quality products.
>
> U.S. companies must link their own R&D efforts more closely to commercial production. Compared with Japanese firms, most

American firms draw a sharper distinction between research and development on the one side and production and marketing on the other. This division prolongs product development times, causing marketing opportunities to be lost.

Again, in Business Week, and I quote:

A decade ago Japanese companies stunned their U.S. rivals by spewing out products of ever higher quality at ever lower and lower prices. This stemmed largely from the fact Japanese, emulating the way American companies operated prior to World War II, don't have separate design and manufacturing functions. Their product engineers are equally adept to both. Using concurrent engineering to harness the ingenuity of America's small manufacturers could spark an industrial renaissance.

That is the article in Business Week entitled, "A Smarter Way To Manufacture," in April 30 of last year, at pages 110 to 117.

Mr. President, I referred earlier to the testimony of Antitrust Division Chief James Rill. He said in his testimony:

We are concerned that statutory provisions mandating structural separation and requiring comparable opportunities in the Bell operating purchasing decisions may not be necessary to achieve this objective and could foreclose many of the pro-competitive benefits the bill seeks to provide.

He is right. That could occur. That bothered this particular Senator. But this bill was not arbitrarily drawn. This bill was drawn with balance in mind, to allow the best of the best to come into research, the best of the best to come into development, the best of the best to come into manufacture and commercialize and thereby bring the best of technology and the best of technologically advanced services to the consumer. Yet, we put in some of these statutory provisions to make sure that we would not be charged with a disregard for antitrust.

Chairman Sikes, the Chairman of the Federal Communications Commission, stated:

Adding new statutory requirements could frustrate the basic goal of this bill, which is more U.S. manufacturing. We would welcome the chance, Mr. Chairman, to work with the subcommittee and its staff to ensure that legislative rules and our rules are in harmony and that we do not unintentionally create a regulatory morass.

We have it. It has not been easy. Justice and the FCC now go along, saying this is a good bill, excepting of course the administration. And that should be pointed out. The administration does not go along with the domestic content provision. But that is the responsibility of Carla Hills. We dealt with her all last week.

We really have the tail wagging the dog around here. The Europeans all sit there in the EEC—and I pointed it out—and emphasize just exactly what the content provisions are for all of the European Economic Community. And then the administration comes up and says, look, we better not put in a domestic content provision. That will ruin one of our arguments in our trade negotiations.

It should not be an argument. The best way to remove a barrier is to raise a barrier and remove them both. Market forces, that I believe in; market forces operate. Unless and until you can bow and scrape to the Japanese with all of this special relationship nonsense you are not going to get anywhere. But unless and until you can make it in the economic interest of the Japanese, they are not going to deal, and I would not if I were them.

Business is business. As a result, we have to meet this particular competition to try to level out the field and if there comes a time then in negotiating where both sides can remove, let us say, the agricultural benefits, have them in both sides, not just remove them for the one. Similarly, if both sides can remove them with respect to telecommunications and domestic content, we can do so.

Let me read what Henry Geller stated on this.

It is simply wrong to suppress the competition of over one-half of the United States telecommunications industry in this important sector. Further, without manufacturing facilities, the divested regional companies cannot reasonably be expected to engage fully and effectively in the R&D that is vital to this dynamic area. There is simply no need to protect AT&T and the foreign manufacturers from the competition of the Regional Bell Operating Cos.

That is really what you have. He is a former general counsel of our Federal Commission and head of NTIA, and Geller knows this field better than any, in my opinion. What the opponents of this bill are really insisting on with amendments that will be presented here is let us protect NTT and the foreign manufacturers, all under the auspices of looking out for the consumers and for antitrust law. All of a sudden we have all become Justice Department lawyers.

The Justice Department endorses this bill with that regard, not with respect to domestic content. The administration opposes it. But otherwise they are the ones that said, look, we required the manufacturing restriction 7 years ago, and now we know definitely it has not worked. It is a bad provision, and we support its removal.

Janice Obuchowski, Administrator of the National Telecommunications Information Administration on behalf of the administration stated this:

In continuing to bar the Bell Cos. from manufacturing, we are, in effect, handicapping the ability of the United States to meet aggressively the competitive challenge presented by foreign commercial interests. The administration believes that lifting the manufacturing restrictions will have a significant positive impact on the operation of the U.S. telecommunications industry. This important growth industry will better be positioned to thrive and to serve the American public as the United States strives to maintain its competitive edge globally.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF FAST TRACK NEGOTIATING AUTHORITY

Mr. BAUCUS. Mr. President, just before the Memorial Day recess, this body cast one of the most important votes of the year.

The Senate voted 59 to 36 to extend fast track negotiating authority for 2 more years.

Coupled with a similar House vote, this vote will allow the administration to conclude two critical international trade negotiations: the Uruguay round of GATT negotiations and the free-trade negotiations with Mexico and Canada.

I have spoken at length on the benefits of both of these negotiations, but I will briefly recap.

The Uruguay round alone has the potential to create more sustained economic growth than any proposal that will come before the Congress in the foreseeable future. The North American Free-Trade Agreement could create a secure market for U.S. business of 360 million consumers—the largest in the world.

These are the kinds of opportunities that the United States must grasp if we are to remain an economic superpower and a great Nation.

THE RIEGLE RESOLUTION

Unfortunately, despite an overwhelming vote for the fast track, some wish to once again bring this issue before the Senate.

Apparently, opponents of the fast track have decided that if they cannot kill the fast track outright, perhaps they can cripple it with a flank attack.

The most recent proposal would undo the fast track for the North American

Free-Trade Agreement by allowing amendments relating to Mexico and requiring another extension vote next year.

I strongly oppose this effort. After months of debate, the Senate has spoken on the fast track—and spoken strongly.

I see no reason for more of the Senate's valuable time to be spent considering the fast track.

Let us stop debating procedural issues and allow our negotiators to get down to business.

THE ADMINISTRATION'S BURDEN

That said, I must confess to some serious doubts about the outcome of both the Uruguay round and the NAFTA talks.

The negotiations will be tough.

The United States must set high goals in the talks; U.S. economic security is at stake.

In the Uruguay round, our negotiators must negotiate pragmatically.

Our major objectives—liberalizing agricultural and services trade and protecting intellectual property—are sound; indeed, they are imperative.

But the U.S. negotiators also must work for progress in other areas. For example, they must work harder to eliminate or lower tariffs in sectors where the United States has export opportunities.

In the agriculture sector, U.S. interests would be best served by focusing on the biggest problem—export subsidies—rather than promoting the abstract principle of free trade.

If it is to win congressional approval, the Uruguay round must include provisions, like these, that are of concrete benefit to United States exporters.

The administration has an even more difficult job in the NAFTA negotiations. Negotiating a free-trade agreement with a developing country, like Mexico, is an extraordinarily complex task.

Numerous economic studies confirm that a free-trade agreement between the United States and Mexico could be a boon to the United States economy. But if the agreement is negotiated poorly or ignores critical issues, it could cause severe dislocations in our economy.

Unfortunately, I still fear that some in the administration are inclined to negotiate an agreement that is disguised foreign aid for Mexico, not a sound trade agreement.

Let me be absolutely clear. I would strongly oppose an agreement with Mexico that did not provide significant economic benefits to the United States. I believe such an agreement should and would be turned down by the Senate.

Further, because of the wide disparity in development between Mexico and the United States, a trade agreement with Mexico must address issues not covered in past trade agreements.

For example, a trade agreement with Mexico must ensure that economic growth in Mexico does not occur at the cost of the environment. Unless sound and enforceable provisions to address the environment are included in the trade agreement or in a parallel agreement, I will work to defeat it.

It is possible to conclude an agreement between the United States and Mexico that creates jobs in both countries and protects the environment. For this reason, I supported granting fast track negotiating authority for the North America Free-Trade Agreement negotiations.

But unless the final North America Free-Trade Agreement meets both of these objectives, I will oppose it.

CONCLUSION

During the debate on extending the fast track, many—including myself—spoke of the partnership between the administration and Congress on trade policy.

The administration's toughest work is ahead of it in both major trade negotiations.

I can only hope that the rhetoric on partnership is a reality during those negotiations.

Otherwise, the trade agreements that are negotiated will not win congressional approval.

Mr. President, I yield the floor.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, momentarily, we are awaiting to check the unanimous-consent agreement to adopt the committee amendments en bloc. They are simple amendments—capitalization of various words—and if we check it on the other side, which I am sure will be all right, we will ask for these amendments to be adopted.

Mr. President, I see we have that consent now.

I ask unanimous consent that the committee amendments be agreed to en bloc and considered as original text for the purpose of further amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

Mr. HOLLINGS. Now, Mr. President, I think perhaps the Senator from South Dakota, our colleague on the committee, Senator PRESSLER, may have an amendment. I think he is checking now on whether to call it up.

I would just like to take one moment with respect to the statement by our distinguished colleague, Senator BAUCUS of Montana, relative to the flank attack, that we have seen concerning the fast-track bill. We had several months of fixing the jury. The White House worked about 8 months with all the lawyers. Our distinguished colleague from North Carolina could not be present due to a personal loss in the family. They were working on him last Thanksgiving down in North Carolina.

It was not a question that they could move forward. Let us get this thing in perspective. We had a measure still in the Finance Committee that they continued to negotiate, concerning both the Uruguay round and the Mexico-Canadian Free-Trade Agreement or North America Free-Trade Agreement as they describe it. We are not against negotiations. We just want to look at what they negotiate. I like the attitude they have in Missouri, show me. Let us see any trade agreement first before we agree to it. But what the White House wanted to do is to move a trade agreement pellmell with no amendments, up and down, and move it through committee. The administration will call it up on the floor at a propitious time when then they can swap off the Members and their votes, and then the industrial backbone of America will further erode.

I yield to my distinguished colleague from North Carolina.

Mr. HELMS. I do not ask the Senator to yield. I commend him for what he said.

I would ask if he agrees with me that we hear all the time around this place about the authority and the rights of the legislative branch being usurped by the executive branch. And we handed this to them on a silver platter.

Mr. HOLLINGS. Exactly.

Mr. HELMS. Took away from ourselves and at a cost to the Senator's State, my State, practically all States in terms of unemployment and other disadvantages.

I appreciate what the Senator from South Carolina has done on this matter, and I have been proud to stand with him. I am just sorry the sadness of my family prevented my being here for the vote and for the debate. But I think everybody knows where I stand. But I cannot imagine anybody who wants to defend the prerogatives of the legislative branch voting to giveaway this absolute built-in right of the legislative branch.

What are we here for if we are not here to examine every treaty? And we gave it away on this. I think that the taxpayers and all other citizens will feel the brunt of this in the years to come.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. HOLLINGS. Mr. President, I commend the distinguished Senator from North Carolina. He is right on target. We all knew where he stood with regard to our responsibility under article I, section 8 of the Constitution, which reads "the Congress shall regu-

late foreign commerce''—not the executive branch, not the courts but the Congress shall.

Within that responsibility, it is quite apparent you are going to have to have a negotiator, and the administration negotiates these particular agreements and treaties. But that is not to say that you should put a gun at your head when you do not know what they are going to negotiate long before they negotiate it and say that the administration has the complete authority. That is a total sham. That is not the way they do it any other countries.

The other countries stated they would be delighted to continue to negotiate. Certainly, Mexico would. Mexico does not have a concern about whether to negotiate a Canadian-Mexican, North American-United States Free-Trade Agreement. We allow fast-track authority for multinational treaties, such as the Intermediate Nuclear Force Treaty, ABM treaties, and everything else. Many countries join in, and since we passed that fast track in 1974 there have been 90 agreements overall and only 1 of the 90 under fast track was a bilateral treaty and that was the Tokyo round. That treaty came out exactly the opposite of what was represented. It resulted in about a million dollars more in markets for the Japanese and, actually, the deficit balance of trade zoomed up to over $100 billion. There is no education in the second kick of the mule.

Mr. HELMS. The Senator is correct.

Mr. HOLLINGS. We learned from the Tokyo round and, having learned, we ought to be stepping very carefully and cautiously. Yet the administration is again asking, if you please, to continue to allow it to negotiate. They did not want it that way at all. The sham of it all was the headlines and reporters covering it inaccurately as if President Bush finally got authority away from the special interests so that we could go ahead. You think the AFL–CIO is a special interest? When they represent the working people all over America. You think textiles is a special interest? They are in 44 of the 50 States.

The special interests were the multinationals and the banks, the retailers, and the newspapers and they all collaborated together to get that free-trade authority.

The Senator from North Carolina was not here, but we had to finally get down to the real bottom line, free trade, because while we are up here palavering, the Japanese are already down there with the mordido, you call it, the payoffs, and everything else. They are operating willy-nilly down there taking over all the industries. They got several from Nissan, West Germany's Volkswagen, Korea's Hyundai, and all the rest, but they are there. We are not. We are losing jobs, too. We are losing the entire thing while they are getting set up.

As soon as that agreement is signed they will use their money, their organization, to take over the entire American economy. What we have done is get a free-trade agreement with Japanese financing and European financing and we are going to be a second- or third-rate nation.

It is a sad thing to watch this thing happen and say they have overcome the special interests when the special interests are those Washington lawyers downtown; they have been operating this thing fixing the vote for the last 8 months. When they finally get it fixed, they declare themselves innocent and they have had a victory over the special interests, and the Senator and I are running around here for the poor garment workers and a basic industry that takes all of the U.S. organized labor looking out for a general interest all over the United States and trying to hold on to some productive capacity. We are designated to be the special interest.

Mr. President, let me just yield now and say we have been on this bill since 3 o'clock yesterday, we have yet to have an amendment presented. We are going to deliberate procedure. We are not trying to rush anything, but then at the same time you cannot just stay away from the floor and run this thing into the night and into tomorrow night, and come around in the summer and wonder why we have not done our work. We have to move to third reading. We have to move to third reading, and I want to put everybody on notice we cannot get Senators to come and present their amendments. We want to hear their amendments. We want to debate their amendments. There is no time limitation on anything else, other than common sense. These things should not continue. We have 24 hours on this bill, and we have not had a single amendment proposed.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Parliamentary inquiry, Mr. President. Was leadership time reserved?

The PRESIDING OFFICER. Yes. The minority leader is recognized.

Mr. DOLE. Mr. President, I will take 2 minutes not on the pending business. I appreciate the Senator from South Carolina letting me speak at this time.

MFN FOR CHINA

Mr. DOLE. Mr. President, a number of Senators met this morning with President Bush, to discuss the issue of most-favored-nation status for China. I know that, at the same time, a number of Senators from the other side of the aisle, including the distinguished majority leader, took to the floor to criticize the President's decision.

So, our debate on this very important issue has begun.

It is a tough call. It was a tough call for the President, and it will be a tough call for the Senate.

But I believe the President has made the right call, and I am hopeful that—when all is said and done, and all the votes are cast—the President's decision, and probably the President's veto, will be sustained by the Senate.

Let us be clear about one thing. This is not a dispute about the goals of our policy toward the People's Republic of China.

How many Senators were disgusted and sickened by the images of Tiananmen? One-hundred Senators—every single one of us—reacted that way.

How many Senators believe our policy toward China should aim to encourage that Government to end such disgusting human rights abuses, and resume a march toward greater democracy? One-hundred Senators believe that.

How many Senators believe our policy should be crafted to encourage China toward free market reform, respect for international economic norms such as copyrights and patents, and an end to the hideous practice of slave labor? One-hundred Senators believe that!

How many Senators believe we need to push Beijing, as hard as we can, to implement more responsible arms proliferation policies, particularly in regard to advance weapons such as missiles? One-hundred Senators believe that.

There is ''no''—repeat ''no''—dispute about what our policy toward China should try to accomplish. We all agree on the goals.

But there is a big, big disagreement about how we best achieve those goals we all agree upon.

The distinguished majority leader, and some of this Democratic colleagues, have said how they believe we can best accomplish our goals. With all due respect for their conviction and admiration for the energy with which they have stated their views, I believe they are dead wrong.

They are wrong for three basic reasons:

First, what they propose will not work. it will not achieve what we all want to achieve.

It might feel good. But it will not do any good.

Terminating MFN, or attaching conditions we know the Chinese will not meet in the timeframe they are allotted, will not free one political prisoner; will not put China back on the road to democracy and a free market economy;

will not end China's irresponsible arms sales policies.

If our long relationshipship with China—including those decades when we pretended we could get along without any relationship with China—if those long years yield any lesson, it is this: China's reaction to blatant and public pressure from any foreign power will not be concession, or compromise, but a new crackdown at home, and a return to the cocoon of self-imposed isolation internationally.

Second, terminating MFN will punish the very Chinese we do not want to punish: The young, looking for educational and job opportunities; the reformers, starving for more—not less—contact with the democratic world; the entrepreneurial class, the real engine of long-term economic and political reform; those living in southern China, where both the reform movement and the economic ties with the United States are the best established; and the people of Hong Kong, the democratic and free market enclave that China will swallow up later this decade.

The decaying party leadership, the aging military leaders, the oldest generations still clinging to a dying system—they will hardly feel the sting.

And let us not forget: Among those punished, too, will be thousands of American workers—and millions of American consumers—who rely on goods and material from China.

Third, terminating MFN will almost certainly spark a downward spiral of action and reaction in United States-Chinese relations, at the end of which we will face a new Bamboo Curtain around China; a curtain aimed at keeping China quarantined from all of the terrible germs which our presence—our diplomacy, our commerce, our tourism—spreads so effectively: The germs of freedom of thinking, and freedom of speaking, and freedom of acting. Those germs, which have proven terminal to the Communist regimes of Eastern Europe; those germs, which have Soviet communism on its death bed; those germs, which the sick old men in Beijing fear so much, and for such good reason.

Yes, Mr. President, ending MFN may feel good for a while. But, no matter how much emotional anesthesia that kind of act would produce, sooner or latter shooting yourself in the foot starts to hurt.

In this case, it would hurt everyone and everything we do not want to hurt.

In conclusion, I ask unanimous consent to have printed in the RECORD an op-ed from today's Washington Post entitled, "Favored Trade With China? Yes. Use It as Leverage." The op-ed is notable not only because of its uncommon common sense on this emotionally charged issue; but also because its author got his credibility the old-fashioned way: He earned it—by 6 months in a Chinese Communist jail. I hope all Senators will read this persuasive article, and will seriously consider the arguments it makes to support the President's decision.

I ask unanimous consent that article be printed after my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Washington Post, June 4, 1991]

FAVORED TRADE WITH CHINA?—YES; USE IT AS LEVERAGE

(By Gao Xin)

As one of the last hunger strikers on Tiananmen Square in 1989, I can understand the anger that many Americans feel toward China's hard-line rulers. I share that anger, but not the conclusion that the United States should cut off China's most favored nation trading status.

Canceling MFN would help the hard-liners in what they have been unable to achieve on their own—a reassertion of control over the non-state and more progressive sectors of China's society and economy.

In the two years since the Beijing massacre, the central authorities have been unable to regain control over reformist strongholds such as Guangdong province on China's southern coast. Chen Yuan, deputy director of the People's Bank of China and son of conservative leader Chen Yun, has publicly admitted this. If MFN is withdrawn, it will be areas such as these that will be most adversely affected.

It is clear that pressure from the outside world since June 4, 1989, has forced the Chinese government to soften its repressive tactics and ease up on its attempts to strangle certain economic reforms. Despite their hard-line rhetoric, the Beijing leaders have made compromises. They granted permission to astrophysicist Fang Lizhi and his wife to leave the country and have released a number of political prisoners, including "black hand" activists such as Liu Xiaobo. This is perhaps the first time in history that the Chinese Communist Party has responded to such pressures.

Had MFN been revoked last year, it seems to me inconceivable that any of this would have occurred. These concessions were due in no small part to pressure from the United States over the past two years.

Now China has reached a stalemate. The market economy has not yet developed to the point where the reformists can win over the conservatives. But if MFN is restored, it will boost the developing market economy in those areas of the country that are most open to the West. On the other hand, a withdrawal of MFN would give credibility to the hard-line propagandists who proclaim that only socialism and self-reliance can save China.

He Xin, de facto mouthpiece for the conservatives in the government since the crackdown, has virtually admitted that the hard-liners do not want to see any improvement in Sino-American relations. He has written that relations have been characterized by misperceptions on both sides. The Americans mistakenly assumed that China was turning capitalist, and the Chinese were fooled into thinking that the Americans wanted to help China modernize. From the point of view of some conservatives, MFN is part of an American plot to convert China to capitalism.

Of course, U.S. policy makers must address a number of tough issues. The selling of Chinese nuclear and missile technology cannot be condoned, and pressure should be brought not only on the Chinese foreign ministry but also on key military officers to limit such sales and bring China into international discussions to control nuclear and missile proliferation.

While the trade deficit with China is a growing problem, the Chinese have responded to this issue with a willingness to compromise and recently sent a high-level purchasing delegation to the United States.

The Chinese are also likely to compromise on the issue of prison laborers producing goods for export. From my own prison experience, I know that items produced in many prison factories are of such inferior quality that they are noncompetitive, even in the Chinese domestic market. The Chinese leadership will not risk losing MFN over products that represent only a small part of the country's exports.

Since the June 1989 massacre, Chinese intellectuals have placed great trust in the United States and appreciate the pressures placed on the Chinese government. The Chinese people on the whole probably feel more friendly toward Americans than at any time since the founding of the People's Republic more than four decades ago.

During my six months in prison, a sympathetic Chinese police guard assured me that the Chinese government would have to soften its treatment of prisoners because of the worldwide pressures on China. When I heard this, I was deeply moved. If not for such help from America and other democratic countries, I don't think that I, and hundreds like me, would have been released so quickly. And certainly without this outside pressure, I would not have been allowed to accept an invitation from Harvard University to come to America and thus have the chance to express my opinions freely.

There are, of course, limits to the effectiveness of international pressure and limits to how much the conservatives can, or will, back down. Wang Juntao and Chen Ziming were sentenced to 13 years in prison for their attempts to bring peaceful change to China. Many others are still imprisoned under harsh conditions. But in April of this year, two prominent leaders of the workers movement were freed. More recently, the government has permitted the wives of five "counterrevolutionaries" who escaped to the West to leave the country and join their husbands.

In the long run, as the reformers' positions are strengthened and a market economy is established, the system of ownership in China can be changed. Political liberalization will only come gradually and only after economic liberalization. Every step forward will depend on support from the world community. In this respect, American support is crucial.

The MFN debate constitutes a long-term means of continuing to pressure the Chinese leadership to improve its human rights record. If MFN is withdrawn, the United States will lose the critical leverage needed to help the Chinese people.

Mr. DOLE. I again thank the Senator from South Carolina and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

WHY WE REMEMBER: THE SECOND ANNIVERSARY OF TIANANMEN SQUARE

Mr. PELL. Mr. President, I rise today to join my colleagues in marking the second anniversary of the massacre of democracy's advocates in Tiananmen Square.

This day is more than a commemoration of an event which we all deplore. It also marks the beginning of a serious policy debate about whether or not to grant China an extension of special trading privileges.

Soon the Congress will be doing more than making speeches about China's behavior. Soon the Congress will be voting whether or not to grant most-favored-nation status to China. Yesterday, Senator CRANSTON introduced a resolution of disapproval—Senate Joint Resolution 153.

The arguments will be made on both sides of this issue. And a vote will be called as was not done at the first anniversary of the Tiananmen Square massacre.

One would have expected that 2 years after an event tempers would have cooled some, that the prospect of a defeat for the President is less likely now than 1 year ago.

But such is not so if I am accurately judging the temper of our colleagues. Concern over China is even greater today than yesterday.

Why is this? Why is China a "less-favored-nation" today?

I think two answers can be found: The first lies in China's behavior and the second lies in our own.

The hypocrisy of China's behavior has drawn it critics. China's policy has become "watch what we say, not what we do."

In human rights they continue to arrest and imprison those whose only crime is belief in democracy, whose only desire is political freedom, whose only hope is American support.

In an age in which there is a dangerous proliferation of weapons of mass destruction, in a time and in a place when we have just gone to war to destroy one nation's capability to develop and use such weapons, China has been caught red-faced selling missiles to the Middle East, aiding Libya in the development of chemical weapons, and aiding Algeria in the development of a secret nuclear reactor.

In trade, the very basis of this debate, China has quietly restricted imports from the United States, violated copyrights of American goods, and used slave and child labor to produce goods for exports.

Finally, China continues to provide military and financial support to the genocidal Khmer Rouge as they attempt to regain power in Cambodia.

The second reason for our concern over granting China special trading privileges, ones denied now to the Soviet Union, to Vietnam, and to Cambodia, I think lies in the Persian Gulf crisis when the world community joined to enforce the rule of international law.

China continues to be as guilty as Iraq was by its illegal occupation of Tibet. For decades now China has oppressed the Tibetan people, massacred almost 2 million, according to the Dalai Lama, and systematically tried to eradicate any vestige of Tibetan culture.

Our Ambassador to China, James Lilley, recently acknowledged that "Tibet is under occupation by China." This charge against China is being newly recognized again as a crime not just against the Tibetans but against humanity.

There needs to be a moral consistency in American foreign policy which is now apparently lacking in regard to China.

I could accept the President's objective if I thought our policy was fundamentally consistant. But why then do we insist on isolating Vietnam and Cambodia whose people hunger too for political and economic change? Why not lift our trade and aid embargo on those countries?

Why then do we not press China to end its illegal occupation of Tibet?

Our President, I am certain, has his reasons. We shall have ours when we vote whether or not to grant China a special status not granted to all nations.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I join my colleagues who have spoken in support of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991.

I have been a long-time supporter of freeing the Bell Cos. from the manufacturing restriction dating back to my tenure of service in the House of Representatives. In both the 99th and 100th Congresses my fellow colleagues in the Republican leadership and I introduced trade and competitiveness legislation which included provisions to enable the Bell Cos. to manufacture telecommunications equipment in the United States.

Briefly, I would like to take this opportunity to outline several of the points that have been made by opponents of S. 173, with which I disagree.

First of all, opponents say over and over again that their concerns about the Bell Cos.' manufacturing "just can't be regulated." This, despite the fact that the Bell Cos. are some of the most heavily regulated companies in America. There are extensive State and Federal rules to prevent abuses—it is important to point this out, because it has been lost in the comments of the opponents.

Opponents also say the Bell Cos. will cross subsidize their manufacturing operations by shifting those costs to the backs of ratepayers. Any Senator who takes time to look at this will understand that in the current price cap regulatory environment where the incentive is to reduce, not increase, costs—any company that would attempt to cross subsidize or inflate its cost structure would be bent on self-destruction.

The most duplicitous argument by the opponents of S. 173 is the allegation of Bell Co. self-dealing, a practice of buying only from its manufacturing affiliates. The Bell Cos. have established supplier-contract relationships with, and purchase billions of dollars of equipment and products annually, from hundreds of different manufacturers.

The Bell Cos. also multisource each of their separate product lines—as a competitive procurement practice—to avoid dependency and ensure alternative sources of supply.

The telecommunications equipment market today is extremely diverse and characterized by niche suppliers, each of whom fills a particular need. Rapidly changing technology has created numerous supplier opportunities that were nonexistent in the predivestiture environment.

It is unsound, in my view, to think that the Bell Cos. would attempt to replicate what is now supplied to them by hundreds of different manufacturers with unique talents and proven expertise.

It is far more rational to view the Bell Cos. as having a strong business interest in seeing the U.S. equipment market remain competitive, and innovative—and therefore, capable of meeting the changing, increasingly sophisticated needs of their customers.

Some have suggested placing a restriction on Bell Co. manufacturing which would prevent the Bell Cos. from self-dealing. The problem with this approach, in addition to the unfairness of applying such a restriction to just these seven companies, is that it would deprive many of the Bell Co. customers—small businesses and residential consumers—from the benefits of Bell Co. manufacturing efforts.

If the Bell Cos. can produce something of value why should they not be allowed to sell it to their own customers and why should their customers not be allowed to buy it?

The administration is concerned that the domestic content language is contradictory to our established trade policy as expressed in our GATT talks and other trade negotiations.

I think it is important to realize that S. 173 in its current form improves our trade negotiating position because it brings more leverage to the table. En-

actment of S. 173 will enable the Bell Cos. to enter trade markets and develop an export capability for the first time.

The Bell Cos. will then be in a stronger position to assist U.S. efforts and obtain reciprocal opportunities to trade and invest overseas through private negotiations and contract agreements. Also, S. 173 sends the right signal to our trading partners that the United States walks like it talks in opening up our market and enabling a full complement of players to compete on equal terms and conditions.

The existing policy includes one set of rules for the Bell Cos. and a different set of rules for the rest of the industry. S. 173 would make everyone play by the same set of rules, and would also tend to ensure that new jobs created will be created in the United States, not overseas.

The current ban on manufacturing impedes the development of the U.S. telecommunications network. I feel very strongly that continued development is essential to continued economic growth and international competitiveness.

Entry by the Bell Cos. will give telecommunications equipment manufacturing in the United States a shot in the arm, and help to enable our domestic industry to remain healthy and vibrant.

This legislation is a jobs bill, domestically. It is a bill that is long overdue. The Commerce Committee has considered this legislation very carefully over the past, at least 4 years. We have worked on it. We have reported this legislation out, and I think it is very well crafted.

I hope my colleagues will not try to pick it apart piece by piece. We still have to go through the Senate, through the House, and go into conference. There may be some problems that can be worked out in the conference. To have it delayed by an inordinate number of amendments or stopped in the Senate by killer amendments I think would be a big mistake.

I say to my colleagues in the Senate, for too long the telecommunications systems in America have been run by the courts, specifically by one judge. It is time we begin to reverse that. Why in the world would we prohibit American companies from being able to compete domestically and in foreign markets? We do not allow the baby Bells to get in there and produce good quality equipment.

I am convinced American companies could produce better equipment at a better price.

This bill is long overdue from the standpoint of letting the courts run the telephone companies in America; it is long overdue from the standpoint of being able to have better equipment; and it is long overdue in terms of jobs in America and every region of the country.

I think that the domestic content part of the bill is one of its strengths. We say that foreign components cannot exceed 40 percent, but if there is an exceptional set of circumstances, you can go to the FCC and have even that waived. What do we want to do, guarantee that this equipment is made in some other country? Let us give Americans a chance. This should not be a killer amendment and if we knock that minimal domestic content language out of this bill, it is going to substantially reduce the likelihood that we would get a bill at all.

So I urge my colleagues to support this legislation. It is time we have a little more "made in America" in our telephone equipment. It is also time that we take this whole issue back away from the courts.

This is a classic case of where the system was not broke, and we fixed it anyway. It is about time we tried to level out the playing field and allow everybody to have a chance to compete in this very important area.

I want to commend the chairman of our committee, the distinguished Senator from South Carolina, and our ranking member, the Senator from, Missouri, for crafting this legislation and bringing it to the floor of the Senate. They have done a good job. Let us go ahead and have the votes we have to, and then let us report out favorably this very important legislation. I yield the floor.

Mr. HOLLINGS. Mr. President, let me thank the distinguished Senator from Mississippi and a fellow committee member who has worked hard on this particular measure. He really focused on the point. This bill is intended to change the full employment for foreign manufacturers policy.

At the present time, there is no question about where RBOC's are investing their resources. Every one of these so-called very financially strong RBOC's [Regional Bell Operating Cos.], are investing overseas. We are losing it all. That is why we put the domestic content measure in to bring back jobs, bring back the industry, and bring back technology to the United States. If we can get them into the research and development, then we can start developing the technology, build up our technological strength in America, which has always been our advantage.

Our standard of living is too high to compete with Singapore and other places of that kind. Knowing that, we have to have the advanced technology which Singapore does not have. If we are going to do that, we have to change this foreign-employment and full-employment policy for foreigners policy at the present time. That is exactly what we have with this bar on the RBOC's ability to manufacture.

I might say, while we are trying to work out the so-called rural amendment by our colleague from South Dakota, no one has been more concerned about rural America than this particular Senator. We are more rural than metropolitan or urban from whence I come. This bill does not discriminate against rule telephone companies at all.

What they really, in essence, have asked for is that the RBOC's and the small telephone companies shall jointly operate. When you say shall jointly operate your separate wholly owned subsidiary with the rural telephone companies, then the rural telephone companies have a veto over any plans of the RBOC they disagree with.

That is not required in business or industry anywhere. It is not required now. It would not be required of Northern Telecom, Fujitsu, Nippon Electric Cos., Siemens—just go down the list of all of these foreigners. We are not requiring it now. We are not requiring it of the 1,400 telephone companies. All of a sudden they want to come in and say if and when you get that independent, wholly owned subsidiary, we want another restriction that you shall operate with us, namely, giving us a veto, and that you shall deliver on demand the equipment. If you have software or hardware that separate subsidiary produces, if the software or hardware becomes archaic, extinct, inefficient, you have to still produce it.

For the Congress of the United States to pass a law that says a company has to produce and continue to manufacture archaic equipment and sell it at a loss—this crowd has gone loco long enough on a lot of policies, but heavens above, that does not make sense. Yes, one provision of the amendment would require RBOC's to manufacture and sell equipment, as long as small telephone companies want it, even if it means selling it at a loss.

I want my colleagues to read this amendment. I am going to try to look at it and be as reasonable as possible. But, we are not going to pass a provision that has the National Government telling a company to sell at a loss. The whole idea is to advance technology, not to establish one particular technology as of 1991 and continue to sell it so long as an REA or rural telephone company demand it.

The South Carolina rural telephone people would be the first to sort of smile and laugh at me as I talk because they know I am their best friend. I have supported all their measures, but we cannot support this amendment in its current form. It goes against the grain of common sense and business practices. The rural telephone co-ops, they have remained competitive. That is why they exist today. They are economically strong. I just have come from meeting with one company and heard their financial report. It is won-

derful to hear through the ears of a U.S. Senator that something is in the black; that they are operating within budget. I have not heard that since 1968 or 1969 up here. I commend them. I support the rural telephone co-ops.

I see others want to speak. I hope we can move along and get a compromise amendment addressing the rural telephone companies concerns.

I do not want any misunderstanding about the domestic content which the Senator from Mississippi has emphasized on the one hand. It is an excellent provision. If we were going to join EEC '92, we would have to do it. We are just emulating our competition. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DANFORTH pertaining to the introduction of S. 1207, S. 1208, and S. 1209 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legisative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. (Mr. KERREY). Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1211, S. 1212, and S. 1213 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATFIELD. Mr. President, I ask unanimous consent that I may proceed, with the permission of the manager of the bill, for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

CIVIL RIGHTS LEGISLATION

Mr. HATFIELD. Mr. President, this morning I was privileged to join with eight of my colleagues on this side of the aisle in introducing a comprehensive civil rights bill.

Mr. President, we have chosen to put this bill into three parts as has been described by our colleague from Missouri, Senator DANFORTH. I shall not at this moment attempt to go into the detail of each of these three parts.

In effect, what we are trying to do is introduce in parts what were the fundamental components of last year's civil rights bill with modifications. I say with modifications on the basis that we are looking at the possibility of building on last year's experience. As you know, Mr. President, I, along with others, were original cosponsors of last year's civil rights bill and I voted to override the President's veto, the President of my party, or as a fellow Republican.

There were some 11th hour attempts to put together a compromise. The President of the United States called two or three Senators into the White House a number of times to try to help work out those hangups, those difficulties, that proved to be impossible at the last moment. But the good faith and the good effort of President Bush, I think is very evident.

Those of us who have known President Bush for many years—and I count it a privilege to be one of his classmates in the 90th Congress when he came to the House from a district of Texas and I came to the Senate from Oregon—know that he has had a long commitment in the field of civil rights. And there is no exception to that long record of commitment and action in this particular day.

Mr. President, those who have raised great concerns and fears, as if this were a crowbar approach, ought to go back to the fact that in the States of the Union we have proven the case. A moment ago, when Senator GRAHAM of Florida was here on the floor, it was very interesting to note that all the Members of the floor, including the Chair, were former Governors. The Chair, as Governor of Nebraska; Senator CHAFEE was here from Rhode Island; Senator HOLLINGS, of course, the senior member of the Governors here at that moment, from South Carolina; and myself from the State of Oregon.

Mr. President, over 30 years ago, the two pioneer States that put together comprehensive legislation dealing with civil rights in the workplace was the State of New York and the State of Oregon. When you go back to that record, it is not something that is innovative in the sense of a brand new idea that is coming upon us that somehow is threatening the tradition or the establishment of whatever it may be, be it on the side of business or unions or whatever it may be. This is a proven concept that has been tested in the workplace in a number of States leading up to the first Civil Rights Act of 1964.

Now since 1964, like other comprehensive legislation of a pioneering character, there has to be fine tuning over a period of time of use. The court, in five cases, to many of us has not carried out—and no disparagement on the court—has not carried out what could be called legislative intent. And therefore the subsequent legislation that occurred since the act of 1964 we feel will be more in tune with the original intent of abolishing discrimination in the workplace by the 1991 bill.

You know, Mr. President, civil rights legislation has been a long time before 1964, but never could be enacted. We do not have to go back and recite the history. We know the history of why it failed. But the day came when the majority leader was joined by the minority leader. Senator Johnson from Texas finally achieved the kind of legislation that Senator Dirksen of Illinois, the minority leader, could support. And together they worked out the civil rights bill of 1964.

I do not believe the situation is that much different today in the sense that we have to have a bipartisan bill that will ultimately find support at the White House. That is the simple reason why we have come forth as what may be categorized as moderate Republicans or radical Republicans or leper Republicans or whatever you want to give us as a title or label to try to start this kind of bipartisan process as against a situation that is happening in the House legitimately.

And I am not being critical at all of what is called the Democratic bill of the House that will be coming over here. We joined the Democrats last year in making that effort of bipartisanship. And so we are trying to find a bill that will pass and be signed into law.

It may not please all of the people on either side but, nevertheless, let us take action where we can find the ability to take action and the agreements necessary to get a further step toward the elimination of discrimination in the marketplace.

I think, also, we have to understand that some of these things are very hard to define, whether in legal terms or other terms. One commentator said: Discrimination is like a hair across your face. You cannot see it. You cannot find it with your fingers. But your keep brushing at it because the feel of it is irritating.

We are in this status as far as discrimination. We hope to include women and minorities as well as the traditional focus on the blacks in our society.

So, Mr. President, as I may, I am delighted to be a part of this effort. We are very open to working with our colleagues on the Democratic side. We recognize we seven or nine Republicans, or however many will end up supporting and cosponsoring our bill,

are only a fraction of what we have to have to pass a civil rights bill. But we also realize that rhetoric has reached a level where with serious negotiations and people who are committed to the proposition, let us pass a bill, the best we can get, the strongest we can get, the most effective one we can get, rather than standing back and saying, well, we can put it to a vote and divide the sheep from the goats and see how it will play out in the 1992 elections. That is not helping the people we are trying to help. Nor is it righting the ills of our society.

I want to speak, again, to the fact that this is a tried and tested program, both in our Federal legislation and the State legislation that preceded it for many years. I am proud my State has been in the forefront of civil rights legislation. I consider it one of the great battles of my political career which I hope will be a legacy to the people of my State. We pioneered in migrant worker legislation, when people said it would wreck the agricultural community in my State, that the economy would be devastated. We passed it, and it did not wreck the agricultural economy in my State. And we are far from the goals, where we should be, in migrant worker legislation.

We have passed the point where civil rights should be a buzzword but let us look at human beings who are discriminated against, some by design, others unintentionally, and let us eliminate all discrimination in our society. This is part of the long-term effort, and I am proud to be part of it. I thank the Senator from South Carolina for yielding.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITON ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX, Mr. President, I rise in support of the bill pending before the Senate, and will make a few comments if those are in order.

I start by commending the chairman of our full Senate Commerce Committee for the effort he is making to put the Congress back in the position of making telecommunications policy in this country. Some would agree that that is almost a novel idea, in light of how communications policy in this country has been made, at least since 1984. It has been made, not by the House of Representatives, not by the Senate, nor by the administration.

Communications policy in this country, since the breakup and divestiture of the AT&T company, has essentially been made by one judge sitting in one court here in the District of Columbia. I refer to Judge Greene, who, because of a stituation regarding the legal suits that were filed, is in charge of following that decision and ensuring that the 1984 decision is continually being followed.

The result of all that, to anyone who is listening, is that the policy determining the future of telecommunications development in this country is not being made in open debate. It is not being made by a duly elected representative of the people of this country. But the policy is essentially being made by one judge sitting in one court, who just happens to be the person who is in charge of carrying out the dictates of a lawsuit, a decision which was rendered back in 1984.

It is clear, and I think everyone here will agree, Congress should make the policy; the courts should interpret that policy and should render decisions based on the policy set by the Congress. This legislation for the first time, really, since 1984, puts the Congress back into the decision on how our policy is to be made regarding an industry very important to the United States of America, the telecommunications industry.

This legislation essentially allows the Bell Operating Co. located throughout the United States for the first time since that decision was rendered to become involved in the manufacturing and the research and development of communications equipment in this country.

This is a tremendous industry for the United States of America. But we are losing it. We are losing it to foreign countries. We are selling them our technology and they, in turn, are selling it back to us in little boxes that they ship back to the United States of America. If we allow this to continue unchecked, this great, thriving industry that is now still an American industry will be an American industry no longer.

Some of the companies, AT&T in particular, say we oppose any changes; we do not want to make any changes in the current situtation.

I guess not, because they control it completely. But I suggest to them when they say if we pass this bill it will cost American jobs, that that loss pales in comparison to the American jobs that they are now exporting to countries all over the world.

Since the divestiture of AT&T, we have seen the elimination of over 60,000 manufacturing jobs nationwide, the startup of 10 major joint foreign production ventures, and the institution of four wholly owned offshore production operations in Europe and Asia alone by AT&T. We are talking about losing American jobs? They are exporting American jobs faster than any other company in the United States.

AT&T has steadily downsized their domestic manufacturing operations and have reduced their work force by a net 68,500 jobs through yearend 1988, not taking into account the years since 1988.

In January of 1989, AT&T announced an additional 16,000 jobs will be eliminated from its work force.

AT&T has closed five production plants: In Baltimore, MD; in Cicero, IL; in Indianapolis, IN; in Kearny, NJ; and Winston-Salem, NC.

In addition, the substitution of their domestic production and employment with offshore manufacturing has cost us jobs as in the case of our own city of Shreveport in Louisiana, where an entire equipment line was relocated in Singapore, because they feel they can do the work over there more cheaply.

I suggest to anyone who argues that this bill somehow will cost American jobs, I say just the opposite is true. By allowing American companies to engage in manufacturing that is now prohibited by an arbitrary decision by one single judge, to allow these new companies to engage in manufacturing which must be done in the United States, using component parts made in the United States, if such are available, is a move in the right direction to unchain these artificial shackles that are binding America's leaders of technology from doing what they can do best. It is high time that the Congress relieve them of those burdens and allow them to perform in a way that we think they will be able to perform, and in America, not in Singapore, not in Thailand, not in China, but in this country producing products for this market.

Some will say it is unfair to let these companies, which are monopolies, engage in manufacturing because they will just sell it to themselves and allow no one else to sell it to them. Or they will use their revenues from their telephone service to subsidize the manufacturing so that people who use the telephone will somehow be paying for the costs of manufacturing this equipment.

I congratulate our committee, and congratulate our chairman in particular, and others who support this legislation because of the built-in safeguards that this bill has which prevents that from happening, such as the requirement that the Bell Operating Cos., one, must conduct all of their manufacturing out of a separate affiliate; a totally separately instituted affiliate which cannot be run or operated or controlled by the Bell Co. In addition, they must provide to unaffiliated manufacturers comparable opportunities to sell their equipment to the telephone companies that they provide to themselves.

In addition, cross-subsidization—this use of revenues from the phone business to cross-subsidize the manufacturing expenses—is specifically and expressly outlawed, and penalties are provided for any violation of those prohibitions.

In addition, the Bell Operating Cos., through their affiliate, must make their equipment available to other telephone companies under the same prices, terms, and conditions.

I say to the Members, this, indeed, is a very important protection, to ensure that a manufacturing company under this bill must sell not only to themselves but must offer to other competitors at the same price, terms, and conditions those products. I think this is a built-in protection to make sure they somehow are not giving themselves some sort of a sweetheart deal, because this legislation requires that whatever they offer the Bell Co. for that equipment, they must offer it to all of the other telephone companies to ensure that everybody has an opportunity to benefit from this new technology and these new manufacturing techniques that the new companies will be able to bring to this business.

Mr. President, my own State of Louisiana has lost up to 7,500 jobs as a result of Judge Greene's decision in the manufacturing industry alone because of exports of American jobs to Singapore and other parts around the world. This is a jobs bill, that is correct, but it is an American jobs bill. It is also going to provide the technology so America can continue to be a leader in the free world in the telecommunications industry.

I wholeheartedly recommend my colleagues' affirmative attention to this legislation.

On a final note, it was interesting that I was handed a copy of a letter from a judge in the district, the judge I referred to, Judge Harold Greene, U.S. district judge from the U.S. District Court for the District of Columbia, which is about 10 pages of comments essentially on the legislation, essentially saying he does not like it. I appreciate the fact he does not like it because it is contrary to the decision they reached back in 1984.

But I also point out that the Congress makes the policy; courts interpret that policy. The Department of Justice enforces that policy if, in fact, there are violations of that policy with criminal intent.

I think it is highly unusual, and I think it is probably improper, in this Senator's opinion, to have the views of a judge on legislation that is pending before the Congress of the United States that affects decisions that he has rendered in the past. I think his role is a proper one in carrying out the intent of the Congress as expressed by the Congress and signed into law by the President of the United States. But certainly to provide the Members of Congress a very detailed explanation, it almost looks like, I say to the chairman, a witness' testimony before our committee when they come before our committee to testify and give their views on legislation that is pending. We now have the fact that Judge Greene does not like the legislation.

I submit it is the Congress who should determine the policy of the United States when it comes to telecommunications industries in this country, and it is the judge's appropriate and proper role to interpret that policy after we pass it, not during the process.

So I urge my colleagues to support the chairman's bill. I enthusiastically serve as a cosponsor to that legislation and hope it will be adopted.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from South Carolina.

Mr. HOLLINGS. Madam President, I want to thank our colleague from Louisiana. Senator BREAUX has been a leader in trying to develop a balanced approach to make this country competitive again and to regain our technical leadership in the communications field. We have a wonderful opportunity so long as we do not sit here blindly, thinking we are in control by forbidding the best of the best the seven Bell companies that we have built up over the years, companies that are now competing with each other. The competition is there. This is not the monolithic AT&T that existed in 1984.

Senator BREAUX has helped lead the way, and I think he has properly commented on the letter. I have just received a copy of this letter from Judge Greene. It seems our distinguished colleague from Illinois, Senator SIMON, had written Judge Greene for his opinion on this bill. Judge Greene responded in the first few lines by stating he would not express an opinion on the bill but I will write on for the next six pages giving a legal brief and argument against S. 173. It is totally uncalled for and inappropriate.

I want my colleagues to understand that we are not floating. I have been trying to be deliberate. We heard from Members on health, we heard from Members on China and civil rights and everything else while we have been trying to negotiate with our friend, the Senator from South Dakota.

One way or another, we are going to vote on that particular amendment. The distinguished Senator from Illinois is also working on a matter of an audit amendment. We do not need to include an audit provision in this bill because the States already have the authority to audit. We also provide in this bill under sections H and I on page 11 of the bill that the Commission shall promulgate the rules and regulations relative to the authority, power, and functions with respect to the Bell Telephone Cos. and their subsidiaries and prescribe the regulations for the audit to make sure that they do not cross-subsidize.

We are not playing games. If they want to try to specify even further, we will have to look at it.

But we do have concerns about language that could result in 50 States auditing 1 manufactory affiliate and the Bell Cos. having to pay for it.

With respect to the Commission itself, we have to depend on the Commission. They have attested to the fact that they can dutifully audit. They have the authorities now. Heretofore, when we had the monolithic, they had to visit the several States, go to the company, get its records, everything else. Now it is computerized. It is zipped out to their computers and reports are made and the audit is had. I do not see anything else is required.

I want to hasten colleagues to come on down with their amendments or, again, if we cannot get them and get a vote, we will have to go to third reading.

I appreciate the indulgence of the Senator from Rhode Island. He has been on the floor, and I yield to him.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I want to thank the distinguished floor manager, the senior Senator from South Carolina, for giving me a few minutes.

Mr. HOLLINGS. The senior junior Senator from South Carolina.

Mr. CHAFEE. That is right, he has been here a long time but he is still the junior Senator.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 1207, S. 1208 and S. 1209 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Alabama.

Mr. HEFLIN. Madam President, the role of telecommunications in our daily lives seems to have few limits. Not long ago, we knew little of facsimile machines, voice mailboxes, call waiting services, or the ability to conduct banking transactions by phone. Yet today, these technologies are routine parts of our lives to which we have become quickly accustomed and on which we have become rapidly dependent.

The future undoubtedly holds increased innovation in telecommunications technology and increased reliance on these technologies in both our professional and personal lives. In light of these realities, I believe it is incumbent upon Congress to eliminate any unnecessary restrictions on our telecommunications industry so that we may compete in the global marketplace. In that regard, I want to commend my colleague, Senator HOLLINGS, for his efforts with regard to S. 173, the bill before us today.

Under this bill, the manufacturing restrictions placed on the Bell Operat-

ing Cos. by the Modified Final Judgment would be lifted while putting into place a variety of important safeguards to prevent anticonsumer and anticompetitive abuses.

Among these safeguards are: First, a prohibition on the Regional Bell Cos. from manufacturing in conjunction with one another; second, a requirement that the Bell Cos. manufacture only through affiliates that are separate from the telephone company; third, a requirement that manufacturing affiliates make their products available to other local telephone companies on a nonpreferential basis; and fourth, a prohibition against cross-subsidization between a Bell Co. and its manufacturing affiliate.

Another important feature of this legislation is a domestic content provision designed to protect the American worker. This provision requires that the Bell Cos. conduct all of their manufacturing in the United States—to me that is a very important provision—and that the cost of foreign components used in Bell equipment not exceed 40 percent of the sales revenue from that equipment during the first year, to be adjusted annually thereafter by the FCC. I believe that these requirements will help protect the American marketplace from unfair competition and from foreign competition for American jobs.

For several years now, Congress has followed the operations of the Bell Cos. in the wake of the AT&T breakup. Last year, this legislation was passed by the Commerce Committee by a voice vote, and this year, the bill was voted out of the committee on a 17-to-1 vote. The issues involved in this legislation are extremely complex and have developed over time. It is my belief that this carefully crafted bill both encourages competition and provides safeguards for the American public. For these reasons, after carefully reviewing the evidence, I believe that the time for this legislation has arrived.

I urge my colleagues to join Senator HOLLINGS and the other cosponsors, of which I was one of the original, in support of this much needed legislation.

Mr. GORTON. Madam President, as a member of the Telecommunications Subcommittee, of the Commerce, Science, and Transportation Committee, I have had the opportunity to talk with a number of people in the telecommunications business regarding S. 173.

As the chairman of the committee well knows, last year, when we considered a similar measure in the Commerce Committee, I initially had reservations about the chairman's proposal. I was concerned that allowing the Regional Bell Operating Cos. to manufacture equipment could pose a threat to an already competitive, vibrant sector of the telecommunications industry.

Therefore, over the course of the last year, I sought the advice and opinions of manufacturers of telecommunications equipment from Washington State. Contrary to my initial fears, the vast majority of the telecommunications businesses in my State favor the passage of S. 173.

I would like to briefly mention some of the comments in the letters I have received.

From Advanced Electronic Applications of Lynnwood, "The proposed legislation would liberate companies such as AEA, to participate in business partnerships with the Bell companies in the design and development of telecommunications equipment."

From Eldec Corp. also of Lynnwood, "Competitiveness cannot and should not be legislated. Our best customer, Boeing, has virtually all of the capabilities—including fabrication—of its vendor-base and could easily be our most serious competitor but the potential vendors to the telecommunications industry do not require or desire protection."

From Applied Voice Technology of Kirkland, "We believe the Regional Bell Operating Cos. to be an excellent source for outside capital financing and strategic partnering." From ICOM of Bellevue, "S. 173 would enable us to capitalize on the financial strength and the network and customer know how of Bell Cos. like US West. Those assets, combined with our manufacturing capability, would enable us to grow our businesses and add new jobs to the Washington economy."

Madam President, I believe in listening to my constituents. As their comments indicate, the small manufacturers from Washington State clearly support enactment of this bill.

I am, therefore, happy to join with the chairman, the distinguished Senator from South Carolina, in supporting the bill. I am also delighted that he has considered very thoughtfully some amendments around the edges of the bill like that proposed by the Senator from South Dakota, and I know I will give great weight to the recommendations of the Senator from South Carolina in that connection.

I suspect there will be other amendments. Some may be contested; some may not be. I will look at them but I will judge them from the point of view of considering that this bill moves us in the proper direction.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The manager of the bill.

Mr. HOLLINGS. Madam president, I think the Senator from South Dakota is momentarily coming to the floor with a compromise amendment relative to the rural local telephone exchange carriers, and the offering of equipment to those carriers, so long as there is a reasonable demand for that equipment, and that they do not, of course, require that that affiliate produce it on a nonprofitable basis.

The marginal cost standard would be implemented by the FCC itself. And I do not want to mislead, as I understand there is no agreement by the Bell Operating Cos., to that part of this particular amendment. Parts of this have been worked on for the past 3 weeks. The Bell Operating Cos., still have not agreed to that.

This Senator is studying it closely to see exactly what the Senator from South Dakota presents. And also with respect to planning and design, the amendment would require joint network planning of telephone companies operating in the same area of interest. You could not take 1,400 different little companies and require the Bell Telephone Cos., to come along and start negotiating with every little company. They would have to build mammoth office facilities to have the planning rooms and so forth at one time. So it would be restricted to those companies operating in the same area of interest.

We also remove the matter of requiring joint operations. Under the joint operations requirement as it appeared in the original amendment filed by Senator PRESSLER, that amendment would have required one telephone company to operate the phone system of the other company. Further, the joint planning provision originally would have provided one phone company with a right to veto the planning decisions of another company. As I explained earlier on the floor, we could not accept that. I think that has been clarified now where the operation is not to be included in the amendment of the Senator from South Dakota.

No participant in such planning should delay the introduction of new technology or the deployment of facilities to provide telecommunications services. They should not, in other words, have to require an agreement as a prerequisite for the introduction or deployment of new equipment.

We are trying to be considerate of the concerns that rural telephone opperatives have, that the distinguished Senator from South Dakota has, and we are still trying to be sensible about it. There is not a veto in it, and they could not veto the introduction of improved telecommunications technology. That is the whole idea. This thing changes overnight, and as we all know, that is competition, to come out with again the more improved telecommunications equipment and software.

I see that the distinguished Senator from South Dakota has reached the floor. I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The senior Senator from South Dakota.

Mr. PRESSLER. I thank the Chair.

Madam President, I rise today on behalf of Senators GRASSLEY, SASSER,

BAUCUS, BURDICK, CONRAD, DOLE, WELLSTONE, SIMPSON, BURNS, and myself to propose an amendment to S. 173, the Telecommunications Equipment Research and Manufacturing Act of 1991.

Madam President, this amendment had been expected to go to a rollcall vote, and we had expected a very close vote. But I and other Senators along with our staffs and the staffs of the rural telephone community have been meeting this afternoon, and we believe we have reached a compromise.

Our goal is uniform telephone service for all Americans. In 1988, I wrote an article in the UCLA Federal Communications Law Journal concerning this concept of universal service, which emphasized the need for a coordinated telecommunications policy for the Nation.

Without universal service as a fundamental premise of this national telecommunications policy, we in smaller cities and rural parts of our country would be left far behind in the advancing age. The legislation I now propose ensures that rural areas will be full participants in the information age.

The amendment would do the following: First, my amendment would require the Bell Cos. to make software and telecommunications equipment available to other local exchange carriers, without discrimination or self-preference.

Second, the amendment would require the Bell Cos. that manufacture equipment to continue making available the communications equipment, including software, to other local telephone companies, so long as the FCC certifies that manufacturing such equipment is profitable. Smaller independents and rural phone companies are concerned that if the Bell Cos. are allowed into manufacturing, they would be much more likely to buy existing manufacturing equipment than to start new ones. This is particularly true for switch manufacturing, which is capital intensive. If the Bell Cos. refuse to supply software, they could prevent the independents from providing new services. Then the Bell Cos. could market such services to the company's large customers, emphasizing that the independent company was unable to offer the service.

A Bell Co. also could use this leverage, if it wanted to acquire a neighboring small independent in a growing area. It could further its acquisition objective by depriving the target company of technology, stimulating the consumer complaints to regulators.

Small and rural companies are worried that a Bell Co. could acquire an existing manufacturer, change the product line to meet Bell plans and needs and cease to support equipment and software installed by small companies. If new software is not made available, a rural company might have to choose between installing a new switch or depriving its subscribers of new services.

Third, our amendment would require the Bell Cos. to engage in joint network planning and design. The legislation will lead to a nationwide information-rich telecommunication infrastructure that will include not exclude rural communities. To accomplish this goal, we offer this legislation to ensure that small and rural phone companies have a voice in the joint design of the telecommunications network to meet the goal of nationwide access to information age resources.

Finally, our amendment calls for strong district court enforcement procedures, including damages. This provision gives rural phone companies the confidence that the essential safeguards will be effective.

I thank my colleagues for joining me to ensure that rural companies and smaller companies have enforceable and continuing access to the equipment and joint network planning they need, so that all Americans, urban and rural alike, can share in a nationwide information-rich telecommunications network.

AMENDMENT NO. 280

(Purpose: To modify certain provisions of the bill).

Mr. PRESSLER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. PRESSLER] for himself, Mr. GRASSLEY, Mr. SASSER, Mr. BAUCUS, Mr. BURDICK, Mr. CONRAD, Mr. DOLE, Mr. WELLSTONE, Mr. SIMPSON, and Mr. BURNS, proposes an amendment numbered 280.

Mr. PRESSLER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 12, strike "and".

On page 8, line 15, insert "regulated" immediately after "all".

On page 8, line 18, immediately after "equipment", insert a comma and "including software integral to such telecommunications equipment including upgrades,".

On page 9, line 1, strike "other" and insert in lieu thereof "regulated local exchange telephone carrier".

On page 9, line 3, immediately after "equipment", insert a comma and "including software integral to such telecommunications equipment, including upgrades".

On page 9, line 3, immediately after "manufactured", insert "for use with the public telecommunications network".

On page 9, line 5, insert "purchasing" immediately before "carrier", and strike the period and insert in lieu thereof a semicolon.

On page 9, between lines 5 and 6, insert the following:

"(9)(A) such manufacturing affiliate shall not discontinue or restrict sales to other regulated local telephone exchange carriers of any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, that such affiliate manufactures for sale as long as there is reasonable demand for the equipment by such carriers; except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit, under a marginal cost study implemented by the Commission, on the sale of such equipment;

"(B) in reaching a determination as to the existence of reasonable demand as referred to in subparagraph (A), the Commission shall within sixty days consider—

"(i) whether the continued manufacture of the equipment will be profitable;

"(ii) whether the equipment is functionally or technologically obsolete;

"(iii) whether the components necessary to manufacture the equipment continue to be available;

"(iv) whether alternatives to the equipment are available in the market; and

"(v) such other factors as the Commission deems necessary and proper;

"(10) Bell Telephone Companies shall, consistent with the antitrust laws, engage in joint network planning and design with other regulated local telephone exchange carriers operating in the same area of interest; except that no participant in such planning shall delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment; and

"(11) Bell Telephone Companies shall provide, to other regulated local telephone exchange carriers operating in the same area of interest, timely information on the planned deployment of telecommunications equipment, including software integral to such telecommunications equipment, including upgrade;

On page 9, strike all on lines 20 through 24.

On page 10, line 1, strike "(4)" and insert in lieu thereof "(3)".

On page 11, line 7, insert "(1)" immediately after "(h)".

On page 11, between lines 13 and 14, insert the following:

"(2) Any regulated local telephone exchange carrier injured by an act or omission of a Bell Telephone Company or its manufacturing affiliate which violates the requirements of paragraph (8) or (9) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 through 209.

Mr. PRESSLER. Madam President, I have given the arguments on the amendment. I know that I am told that some of my cosponsors wish to be able to come to the floor to speak or to place a statement in the RECORD regarding this.

Mr. BURDICK. Madam President, I am proud to cosponsor this amendment to add rural safeguards to S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991. These safeguards address

Act of 1991. These safeguards address many of the concerns about S. 173 that I have heard from rural telephone cooperatives and other small telephone companies. This amendment would ensure that these small companies have nondiscriminatory access to the telecommunications equipment and software they need to provide first-rate service.

As a lawyer during the depression, I helped write incorporation papers for several rural telephone cooperatives in my State. I remember what a difference telephone service, even party-line service, made to rural communities. Today, telecommunications services are vital to rural life, as well as to rural development. Without access to the latest telephone equipment and software, rural telephone cooperatives and the consumers they serve would be left out of the communications revolution.

One of the primary reasons for this legislation is to give regional telephone operating companies more incentive to develop exciting new products. Many young people in isolated rural areas now benefit from interactive learning, and this amendment is designed to ensure that rural residents not be cutoff from future innovations in telecommunications. Without rural safeguards, allowing the Regional Bell Operating Cos. to manufacture telephone equipment could cause the Nation to be split into the "information haves" and the "information have nots."

America's rural telephone cooperatives want Bell Cos. entering manufacturing to make telecommunications equipment and application software available to other local exchange carriers without discrimination or self-preference as long as reasonable demand exists. They want the Bell Cos. to work with other local telephone systems in network planning, design, and operations. And they want district court enforcement to ensure that these requirements are met. These rural safeguards seem extremely reasonable, and I urge my colleagues to support this amendment.

Mr. HOLLINGS. Madam President, our distinguished colleague, the member of our committee, the Senator from Washington is momentarily prepared to make a statement relative to the bill.

I hope that my colleagues are reading that amendment right through. I was looking at the early part and from what I understood, the amendment is properly reported as a compromise with the distinguished Senator from South Dakota.

My point here for the moment is, it is my understanding that there are those who would wish we would not compromise, that we would try to table this amendment. But I think in the spirit of trying to move this bill, and in the spirit of the concern that all of us have relative to rural America and the smaller telephone companies, we have agreed to that amendment with the following changes: With respect to the first parts on page 8, line 15, insert "regulated" immediately after "all." That next section on page 8, line 18, other early sections on page 9, are either technical or agreed to.

The Bell Cos. have been looking at the amendment of the Senator from South Dakota for quite some time during the past several weeks.

The objection, as I stated a moment ago, on page 9, lines 5 and 6 is where we would not discontinue or restrict sales as long as there was a reasonable demand. What we included in there "except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit under a marginal cost standard on the sale of the equipment."

That one would be in dispute, but the Senator from South Carolina, on behalf of our committee, would be ready to accept it. We have checked with the ranking member, Senator DANFORTH.

Specifically, the final section there, "Bell Telephone Companies shall, consistent with the antitrust laws, engage in joint network planning and design with other regulated local telephone exchange carriers operating in the same area of interest," we restricted it "in the same area of interest" so that the Bell Telephone Co. are not empowered by the measure here to engage with all local telephone exchange carriers over the United States. And in saying "that no participant in such planning shall delay the introduction * * *" of new technology we wanted to emphasize affirmatively that what we are trying to do is spawn, nurture, develop, and install new technology in the deployment of facilities and new telecommunications services. The agreement with such carriers shall not be required as a prerequisite of such introduction or deployment.

The original amendment implied a veto and we have eliminated that veto.

Then, the next section says that Bell Telephone Cos. shall provide to other regulated local telephone exchange carriers operating in the same area of interest timely information on the planned deployment of telecommunication equipment, including software. Then there is a provision with respect to these provisions of a company's right of action, not the individual right of action.

Those are the main points of compromise, and I sort of spelled them out in detail here. Obviously, I have bragged on and on about the character and capability of our Bell Operating Cos., but I do not represent them. I did not put in this bill for them. I put in this bill for the United States of America for the consumers, for the telecommunications industry, for trying to maintain the United States position on the cutting edge of telecommunications technology. So, at times there are things that I am convinced perhaps that the companies themselves, as worthy as they are, would differ with the Senator from South Carolina and if they think another Senator thinks I am totally mistaken I want them to have time to come to the floor and air that and make what motions they want to make before we join in, which I would love to do, with our distinguished colleague from South Dakota.

I yield the floor.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1215 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. Madam President, I thank both the chairman of the committee and my dear good friend, the distinguished Senator from Montana, who was here ahead of me and could have taken the floor ahead of me, for their courtesy to me in this regard.

Mr. BURNS. Madam President, I do not want to stop the flow of conversation on the amendment of the Senator from South Dakota and would speak generally on this bill, S. 173, if that would meet with the approval of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Madam President, I wish to commend the distinguished chairman of the Senate Commerce Committee, Mr HOLLINGS, for the expeditious manner in which he has moved to build upon his efforts begun in the last Congress to provide relief from the manufacturing prohibition in the modification of final judgment [MFJ]. I applaud the chairman's leadership, foresight, and steadfastness in moving this important communications legislation to the floor of the Senate. I would hope this momentum will continue with speedy action by the Senate, and the House action will follow in timely fashion.

I do not know of anything we have talked about more in the Commerce Committee than communications.

Madam President, in my somewhat brief tenure in this body, I have been concerned that we have generally abdicated our responsibility over communications policy. Congress adopted the Communications Act in 1934, and then pretty much left it to courts and regulatory commissions to make policy within that framework.

When you stop and consider that the transistor did not exist in 1934, nor did fiber or digital switches, some might argue that we've been a little remiss in exercising our policy mandate. With S. 173, we have the opportunity to take a first step in correcting that.

I am an original cosponsor of S. 173 and of S. 1981, its predecessor in the

last Congress. From my perspective, this legislation is absolutly critical if we are to maintain our place as world leader in communications. And this legislation is absolutely critical if we are to rebuild our telecommunications infrastructure so that we can compete with the French, British, Japanese, and other countries in the European Community and Pacific rim in the information age and global economy of the 21st century.

While those countries have adopted the necessary policies to insure they're at the forefront of technological innovation, the United States, through a unique mix of action and inaction, has chosen to idle more than 50 percent of the telecommunications assets of this country. While Japan is on a path of fiber to the home by the year 2015, while France has gone from having a second-rate telecommunications system to being the world leader in video text, while the United Kingdom has recognized that telephone and cable television are converging technologies, the United States has been content to let a Federal judge decide the rules of the game, including who may play and who may not.

This is not a prescription for world leadership. On the contrary, if we want to fall behind—some would argue, stay behind—the French, British, Japanese, and others, we ought to stay the course, leave telecommunications policy to the courts, and keep valued assets on the sidelines.

That is obviously not what I am recommending. Indeed, I am pleased that at least on the manufacturing issue, the Senate stands ready to exercise its policymaking responsibility. It is only a first step, but a very crucial first step. I hope it serves as a precursor for debate on the telecommunications infrastructure.

By lifting the manufacturing provision with the adequate safeguards the bill provides, S. 173 recognizes the principle that Government should not decide what activities within an industry particular companies may perform. Simply put, the Government has no way to determine who the most qualified or most advanced potential competitor might be. We do know, however, that increased competition produces additional benefits, many of which cannot even be foreseen.

By removing the manufacturing curbs on the Regional Bell Holding Co., S. 173 will put more Americans to work, and put American capital to work in the USA. And I want to emphasize that. We need our capital working here in our own country. It is a sad paradox that a country which leads the world into one of the most dynamic technological fields of the 20th century should hamstring one group with the potential to help us maintain that leadership into the 21st century.

In the hearings on S. 173 and S. 1981 in the last Congress, concern was expressed that the telephone companies might try to hide some of the costs of their competitive manufacturing activities within the regulated local exchange sector, thereby transferring the costs to the local ratepayers. Or that they might also exploit their knowledge of the technical details of the local network, or design the configuration of the network to favor their product offerings in the telecommunications equipment.

These concerns are real and born of experience. But times have changed, and the ability to monitor regulated companies competing in unregulated markets has increased enormously. So much so, that the Government—the Department of Justice as well as the FCC and NTIA—testified that S. 173 had more than adequate safeguards against these and other abuses.

The alternative to S. 173 is to continue banning the Bell Cos. from participating in manufacturing without even attempting to make competition work. I believe such a "can't do" attitude is contrary to the spirit that has made our great country the leader it is.

I must temper my enthusiasm and support for S. 173, however, with the observation that the foresight and initiative which the Senate is showing has yet to be extended to another aspect of the telecommunications infrastructure. We continue to be reluctant to take the one step necessary to ensure the timely development of an advanced, interactive, broadband communications network.

The telephone companies are in the process of constructing such a network, but the economic pump primer needed to accelerate the process is the ability to provide cable service in competition with existing cable systems. The potential benefits to the American public and our economy are tremendous.

The Commerce Committee knows from its extensive hearings on cable that competition is sorely needed if consumers are to receive adequate service at reasonable prices. We also know that realistically the telephone companies are the only entities with the resources and expertise to compete with cable in the foreseeable future.

The same kind of legal and regulatory safeguards which the committee finds adequate with respect to the Bell Cos. entering the equipment manufacturing business, are obviously also adequate to prevent cross-subsidy and competitive abuses if telcos enter the cable business.

A little earlier I mentioned that history tells us AT&T did abuse its monopoly position with regard to equipment manufacturing. But as the Department of Justice has said, there was no evidence that AT&T did so with respect to information services.

Based on what the Department of Justice, the FCC, and NTIA have said about the adequacy of existing legal and regulatory safeguards and experience, I do not believe the distinction between our willingness to recommend S. 173 and our reluctance to support telco entry into cable is supported by logic or sound public policy considerations. If we retard the rapid development of our telecommunications infrastructure, the harm to our economy and the American people will, in my view, even exceed that which will occur if we fail to enact S. 173.

As a result, on Wednesday, June 5, Senator GORE and I will introduce the Communications Competitiveness and Infrastructure Modernization Act of 1991 which will advance the national interest by promoting and encouraging the more rapid development and deployment of nationwide, advanced broadband communications networks by the year 2015. My bill is designed to complement Senator HOLLINGS' efforts on S. 173 and to move America forward into the information age of the 21st century.

Again, Mr. President, I commend the extraordinary effort of Senator HOLLINGS and his staff. The chairman deserves credit for bringing to the Senate legislation which will move America forward in the information age of the 21st century. I strongly urge my colleagues to support this measure.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Who seeks recognition? The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I think we have arrived at a critical moment in the formation of our Nation's telecommunications policy. We will now have, for the first time, a requirement that there be planning in the formation of our telecommunications infrastructure that will involve Bell Telephone Co., small companies, and rural telephone cooperatives. It will be nationwide planning, not only for rural and small-town America, but for all America.

Indeed, we do need a nationwide infrastructure capable to bring advanced medical services to rural America. This infrastructure will allow smaller universities and small businesses, to access new supercomputer technology. This network planning will also speed fiber optic deployment throughout the Nation. This infrastructure will usher us into an era when people in small towns can video teleconference to their jobs in large cities.

Since 1978, I have served on the Communications Subcommittee. We have never had network planning until this legislation.

I think this amendment is an historic amendment in that sense. Many times in the Commerce Committee I have

pointed out it is not just rural America but also inner-city urban America that is left out.

The same thing is true of transportation in our country. I feel, since we have deregulated the airlines, and I was one who voted against this deregulation, we have had some very severe problems. We have some very great challenges to meet to preserve our airline passenger service in this country in a positive way.

That subject may seem separate and far afield, but the fact of the matter is, all companies want to serve the very rich areas and not serve upstate New York or the smaller towns of California.

The same thing is true of communications. My wife and I just recently had cable TV installed in our home here in Washington, DC. In our home in South Dakota we have also just recently had it installed, and this is 1991.

The point is, in rural areas and inner-city urban areas the companies are not so eager to provide the service. The very centers of our cities, and rural and small city areas are left out.

With passage of the Communications Act of 1934 we established that there would be a common carrier responsibility. That is, if you have some very rich routes, you also have to take some very poor routes. It was not a system of government subsidies, but a government system of assigning routes. If a company took some very lucrative routes they would also accept responsibility to expand their communication service to all areas of their franchise. That is how we built up our national system of communications.

Today we are in a situation that, if you live in a wealthy, densely populated suburb, you can get all information services. Fiber optic cable allows the suburban hospital to be connected with the Mayo Clinic and elsewhere. But that is not true if you live in a smaller city or rural area.

What we are doing here is very historic, because we are once again returning to the concept that there will be nationwide planning, that all the players will be at the table—and that is very important. I have long fought that fight in the Senate not only for communications but also for transportation.

I do not mean to say "I told you so" on airline deregulation, but I do not think that deregulation has resulted in everything positive. I think there have been many parts of our country that have suffered. I think now we are going to have to readdress it.

I make these points to pay tribute to Senator HOLLINGS for his concern about rural America. He has done a great job in leading our committee and in leading us on these issues.

I also pay tribute to my colleagues and cosponsors, Senator GRASSLEY, Senator SASSER, Senator BAUCUS, Senator BURDICK, Senator CONRAD, Senator DOLE, Senator WELLSTONE, Senator SIMPSON, and Senator BURNS.

I would like to thank Kevin Schieffer and Dan Nelson of my staff who worked very hard on this legislation. I also thank John Windhausen, of Senator HOLLINGS' staff along with Mary McManus and Mary Pat Bierle of Senator DANFORTH's staff. I also would like to commend the work of Sue Sadtler, Margot Humphrey, Shirley Bloomfield, Dave Cossen, Lisa Zaina, and other members of the Rural Telephone Coalition.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank our distinguished colleague from South Dakota. He has put his finger right on the pulse. We ought not work with total disregard to the small. The Office of Technology Assessment has reported that we could develop much better rural telephone services if there was better coordination.

The Senator from South Dakota has taken that charge and included provisions in here that the Bell Cos. would not necessarily support; namely, that the manufacturing affiliates shall not discontinue or restrict sales. They did not want provisions relative to the discontinuance or the restriction of sales. Once it was agreed to that it not only included the software integral to it, which was suggested by the Bell Cos. but we put in there that such sales may be discontinued if it is not profitable. That language is better than the original amendment.

Again, at the suggestion of the Bell companies, they wanted to move promptly with respect toward the termination. So we said the Commission shall, within 60 days, consider various facets; namely, that at the Bell Cos.' suggestion, whether the components necessary to manufacture the equipment continue to be available. We are trying to be reasonable, trying to act with common sense.

Otherwise, the Bell Telephone Cos. did not like a requirement that they engage in joint planning and design with the local telephone exchange carriers. We eliminated the idea of engaging in the same operations so there would not be any veto. We also specified that they be operating in the same area of interest. Wherein they operate in that same area of interest, the Senator from South Dakota had provided just that; that they do have joint network planning and design.

We have eliminated a particular objection of the joint operations provision that the Bell Cos. opposed, and also put in at their suggestion, that agreement with such other carriers should not be required as a prerequisite for the introduction or deployment of the new equipment.

Then we made a change at the suggestion of the Bell Cos. that any regulated local telephone exchange carrier, rather than any person could go to court. We did not want anybody who had a bad telephone bill run down and get a lawyer and just clutter the courts. If there is an objection, under the law, we are supposed to exhaust our administrative remedy; not from the courts, but; namely, the Federal Communications Commission. You exhaust your administrative remedy, and this puts the regulated local telephone exchange carrier in the stream court if it wants to challenge a manufacturing affiliate which violates that requirement.

That was included at the Bell Cos.' suggestion. And also the final phrase "or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 and 209." It is not totally what the companies want, by any manner and means.

I commend the Senator from South Dakota and join with him in urging the adoption of the amendment unless another member wishes to be heard on the amendment. The Senator from Iowa would like to speak on the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to take the floor because I think it is necessary for us who are cosponsors of this amendment to express special gratitude and appreciation to Senator HOLLINGS and Senator DANFORTH for their cooperation with Senator PRESSLER, myself and other cosponsors of the rural telephone protection amendment.

I also want to commend the representatives of the Rural Telephone Coalition who have forcefully and effectively advocated the passage of these additional safeguards which are crucial to hundreds of rural independent telephone companies and their customers throughout the Nation. The coalition—consisting of the National Telephone Cooperative Association, the National Rural Telecom Association, and the Organization for the Protection and Advancement of Small Telephone Companies—did an admirable job and service to rural Americans.

Mr. President, the rural telephone protection amendment will provide America's rural telephone companies and their customers crucial safeguards against any anticompetitive activities which might result from the passage of S. 173.

This amendment assures that the benefits of the new manufacturing endeavors anticipated under this bill will be shared by independent telephone companies. They are guaranteed availability of telecommunications and equipment, including software. They will be assured coordination and joint

planning with the Regional Bell Telephone Co.

These protections are important and should help prevent any return to some of the unfair, discriminatory practices against independent telephone companies which occurred prior to the antitrust breakup of the AT&T Bell System a few years ago, which an administrative law judge found to be, and I quote, "adversely impacted the quality and cost of independent service."

Two weeks ago, the Office of Technology and Assessment released a study requested by myself and others which is entitled "Rural America at the Crossroads: Networking for the Future." The OTA made numerous findings that will help policymakers assure that rural economic development is encouraged, not discouraged, by advances in telecommunications. It was concluded that we need to recognize and accommodate the special needs of rural areas. It was also determined that we must have better coordination among telecommunication interests, businesses, and local, State, and Federal officials.

I believe that our amendment takes a major step in the direction recommended by this study.

On behalf of Iowa's 150 telephone companies, I want to again thank my colleagues for their support of this very important amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. PRESSLER. Mr. President, I ask unanimous consent to add as cosponsors Senator DOLE, Senator CONRAD, and Senator BURNS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 280) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent at this time to make a short statement to introduce legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of Senate Joint Resolution 155 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I rise to support amendment No. 280 and to strongly support the underlying bill, S. 173, because I believe it is time to reconsider some of the arbitrary limits placed on the regional Bell Cos. and their abilities to compete in an increasingly complex and competitive world marketplace.

The chairman of the Senate Commerce Committee, our distinguished colleague from South Carolina, has built a truly impressive record of bringing this legislation to the floor. His leadership has enabled this body to address a relevant concern at a time when America's ability to compete in the world is really being challenged in an unprecedented way. There were serious concerns about the original bill, and the Senator from South Carolina has been diligent in addressing all of those concerns, both with substantive changes and with full consideration in committee hearings.

Manufacturers who fear competition from the Bell Cos. are justifiably concerned that potential self-dealing between the regional telephone companies and their affiliates could stifle competitors' ability to sell their biggest customers, the regional telephone companies.

In particular, I understand the independent and rural telephone co-ops fear that their marketplace for major equipment might be adversely affected by Bell Co. involvement in manufacturing. The bill goes a long way toward alleviating this concern. I am pleased that this amendment resolves all of the remaining problems, and again I compliment the sponsor of the bill for going to great lengths to ensure that the legislation contains adequate safeguards against any anticompetitive behavior by the Bell Cos.

I was especially pleased to learn during the committee markup that the National Federation of Independent Business has endorsed S. 173, expressing its satisfaction with the safeguards in the bill. Moreover, I want to report to my colleagues on the floor that I have personally heard from many business leaders across my own State of Tennessee that important new business and consumer services are now being held hostage to the current rules being administered by the Court under the consent decree. It is time for the elected representatives of the American people to set the ground rules and the framework within which competition can proceed.

Mr. President, it is significant that the organization representing the majority of our country's communications workers has enthusiastically endorsed this legislation noting its positive impact on U.S. jobs in an industry that has seen tens of thousands of jobs move overseas since the break up of AT&T.

Some opponents of this legislation have suggested that if Congress opens the door to the regional Bell Cos. to engage in manufacturing, then surely the barriers to electronic publishing and other information services will be certain to fall.

Mr. President, this bill, of course, in no way affects the MFJ restrictions on information services. Many of our colleagues who support S. 173 are equally concerned that we go slower in opening up information services to competition from the Bell Cos.

So again in closing, Mr. President, I congratulate the chairman of the Commerce Committee for his leadership on this important issue, and I urge all of our colleagues in the strongest possible terms to stand behind the leadership of the Senator from South Carolina to support this legislation and make the very needed changes embodied in it.

I yield the floor.

Mr. INOUYE. Mr. President, it is with deep regret that I rise today in opposition to S. 173. I have worked on countless measures with the chairman of the Commerce Committee over some 25 years, and there are only a few times that we have disagreed on a communications matter. I have great respect for the chairman and his in-depth knowledge of communications issues. However, after careful and painstaking consideration of this matter, I continue to feel strongly that this legislation will not achieve its objective of increasing American competitiveness in the international communications market. In fact, I believe it may do just the opposite.

The chairman of the Commerce Committee believes that the time has come to lift the communications manufacturing restrictions and institute a new series of administrative safeguards against anticompetitive behavior.

I believe that the modified final judgment is of great benefit to our telecommunications market, its businesses and users. Thousands of new manufacturers have entered the market since the AT&T divestiture. As a result, consumers have benefited from cheaper and more innovative equipment and many new services. The trade deficit in communications equipment has been reduced from $2.6 billion in 1988 to $0.8 billion in 1990 according to the Department of Commerce. In the area of research and development, spending by U.S. companies, including the BOC's, has increased, not decreased, since divestiture.

During the past 25 years, the U.S. Government has brought four antitrust actions against AT&T. In three of these actions, results in divestiture. In four of these actions, AT&T was prohibited from engaging in certain activities. The issues raised in S. 173 are not novel.

At the heart of the last two antitrust actions was the matter of AT&T improperly favoring its own manufacturing operations. The Government pro-

duced extensive evidence that AT&T purchased virtually all of its equipment from itself, regardless of cost or quality, and that the FCC and other regulators were unable to prevent AT&T from using its local telephone bottleneck to act anticompetitively. As a result, the 1984 modified final judgment prohibited those with the bottleneck facilities, the Bell Operating Cos. from manufacturing telecommunications equipment.

From an objective standpoint, the manufacturing remedy in the modified final judgment has worked. The BOC's are no longer captive of one supplier. They now purchase only about one-half of their equipment from their old relative, AT&T Technologies—the new Western Electric. The number of domestic manufacturers has grown tremendously. In addition, prices are down, and the rate of innovation is up. The BOC's are able to purchase the best equipment in the world at the lowest prices. In addition, on the matter of trade, the United States continues to have a trade surplus in the most important sector of the telecommunications equipment market, the higher value products.

Further, we simply cannot ignore the Regional Bell Operating Cos.' incentives and capabilities to engage in anticompetitive acts stemming from their control of the bottleneck over local telephone equipment. The recent violations by Nynex and US West are only the latest examples of the Bell Cos.' potential to cross-subsidize and engage in discriminatory practices.

Virtually all of the largest phone companies which have been audited by regulatory bodies have engaged in some cross-subsidization or unlawful behavior. For example, a 1986 NARUC audit of Ameritech found Ameritech was cross-subsidizing its regulated business through its procurement process; a 1986 audit of Pacific Telesis by the California PUC found that the company was cross-subsidizing by assigning personnel from the regulated company to the unregulated company, to the tune of $3 million; and a 1985 NARUC audit of Bellsouth found that the regulated business cross-subsidized new, competitive Bellsouth businesses. Finally, in a pending proceeding the FCC has proposed fining a GTE/Contel subsidiary for cross-subsidizing through a purchasing subsidiary. I could go on for quite a while like this, but I think I have made my point.

The primary issue before us is whether there are other safeguards adequate to prevent anticompetitive conduct. I am concerned about the FCC's ability to monitor these potentially anticompetitive acts. The Commission's accounting standard for monitoring cross-subsidization applies only to the plant used for interstate service, only about one-quarter of the total telephone plant. This means that the State regulators are key to ensuring against cross-subsidies, and they have not adopted standards similar to the FCC's. There are even some States which have deregulated all or part of the provision of telephone service, thus ensuring no oversight or cross-subsidies.

Equally troubling is the well-recognized fact that the Commission does not have the resources to conduct frequent audits. In 1987, a General Accounting Office study looking at ways to control cross-subsidies between regulated and unregulated telephone services found that the FCC only has the resources to audit one telephone company once every 16 years.

Three of the FCC's present Commissioners, including the Chairman, have expressed reservations about the ability of regulators to regulate telephone companies. Chairman Sikes has stated that he does not believe that:

> Career Government people or for that matter non-Government people can find out what the true cost of [telephone] service should be.

Similarly, in 1990, FCC Commissioner Duggan, speaking about the possibility of letting the telephone companies provide cable service, said that he has a "nightmare" about a:

> Sixty story building * * * filled with FCC accountants that would be needed to monitor [telephone company] cross-subsidies if they were in the cable television business.

State regulators also have limited resources and have not adopted standards similar to the FCC's. FCC Commissioner Barrett, a former State regulator, stated in 1990 that:

> In my years of rate regulation, I've only seen maybe two States that could recognize a cross-subsidy if it was staring them in the face.

As for the matter of discrimination or self-dealing, it is not clear that the FCC has the experience or resources to monitor such practices. There is no practical way for the Commission to monitor the many thousands, possibly millions, of transactions, to determine if the price, terms, and conditions are nondiscriminatory. The only way to address this problem it simply prohibit the Bell Co. from selling the equipment to themselves. They could still sell to other BOCs, other telephone companies, even companies overseas, just not to themselves. If you were to look at the total international market for telephone equipment, this would mean that they could sell to 95 percent of all purchasers.

While the alleged safeguards in S. 173 will do little to prevent anticompetitive acts, there are those who argue that the entry of the BOC's will do so much to improve our Nation's competitiveness that they still should be freed from the prohibition on manufacturing. Since the BOC's have little manufacturing experience, they are most likely to enter the market through the purchase of another firm. This would merely substitute another player for existing manufacturers. The only potential benefit of allowing a telephone company to purchase existing manufacturers would be if there were significant economies in being both a network service provider and a manufacturer. Again, the hearings produced no evidence to prove such large economies exist. In fact, almost every nation around the world separates its network provider from equipment manufacturers.

I am also concerned that this legislation does not prevent the BOC's from entering into joint ventures with foreign manufacturers, particularly foreign manufacturers from countries which are closed to U.S. companies. This bill would prevent a regulated monopoly to buy equipment from countries which do not permit other unregulated companies from competing in their countries.

I share the aim of S. 173. I believe that we must make the United States a strong and competitive force in the international markets. I do believe that this legislation takes the right approach. The remedies are founded more on faith than fact. Moreover, if we are wrong, it will do great harm to our Nation's and the world's top telecommunications equipment manufacturer as well as to other domestic firms. That price is too high to bear, especially in comparison to the speculative benefits. Thus, I must stand in opposition to this bill.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I really appreciate the statement of the distinguished Senator from Hawaii. He is the chairman of our Communications Subcommittee, and he has done the lion's share of the work on all of our communications issues. As was stated earlier by several of the committee's Senators, we have spent, I guess, 80 percent of our time on communications. On one particular measure mentioned by the distinguished Senator from Montana, I know we have had at least 12 hearings and the Senator from Hawaii has conducted each of those 12 hearings.

This Senator regrets that the committee does not have his support. But I have the full understanding of the position of the Senator from Hawaii. I appreciate his candor and the way he has presented it.

I am asking my colleagues to come forward with their amendments now. We did save, I am convinced, a good amount of time working out the rural amendment that I had been hearing about for over 3 weeks. The Senator from South Dakota is really to be commended for taking the lead on this particular matter.

However, now we hear suggestions of other amendments, but we are ready to move to third reading. Let us come for-

ward with the amendments, let us move on and get some votes this evening so we will be clear tomorrow. I know the majority and minority leaders have a backup of matters to be considered. We want to hear from other Senators. I do not know of anything else to do. We have been on this bill since 3 o'clock yesterday afternoon.

As the distinguished Presiding Officer knows, many Senators have made their statements either in support of or, as our distinguished chairman of the subcommittee, against this legislation.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

I rise in support of the legislation pending before the U.S. Senate on telecommunications. I would like to congratulate the manager of the bill on crafting legislation that once more restores the opportunity for jobs in the American marketplace.

Ever since I have been a Member of the U.S. Congress, and that goes back to my time in the House, I have been frustrated with the direction that our telecommunications policy has been going. I have been frustrated over the fact that telecommunications policy has essentially been drafted, directed, and implemented by the courts, particularly Judge Greene and his so-called divestiture legislation, and the consent agreement.

Way back when I was a Member of the House of Representatives and sat on the Energy and Commerce Committee, I opposed divestiture. I opposed divestiture because it meant the break up of AT&T. I happened to have liked AT&T the way it was.

Why? Because we had the Bell Laboratories that had a number of people working on it, some of whom were of Nobel Prize quality, and working, developing cutting-edge technologies in communications.

We had as part of AT&T something called the Western Electric Corp. that then took the ideas in a laboratory and converted them into telecommunications products. In the old days, they were simply called telephones. Now the array of products is wide ranging. I might add that the Bell Laboratories were not a government agency—absolutely private sector.

So we had the private sector doing the research, then we had Western Electric developing, manufacturing the products, and then those products were sold by little Bells, or local operating companies.

We have heard all kinds of language in this bill, Baby Bells, local operating companies. Back predivestiture they were simply called the telephone company.

Along came divestiture and we broke up the AT&T framework. And in breaking it up, we essentially have eliminated the job manufacturing part.

Yes, we still have Bell Laboratories. Yes, we still have the local telephone companies. But do you know what we do not have? We do not have the Western Electrics anymore. What is more, in my State Senator SARBANES and I, when we were both Members of Congress, each at various times representing the Third Congressional District, represented Western Electric in a corridor of employment called Bruening Highway. General Motors was there. Western Electric was there. Dundalk Terminal was there. And it was a beltway to Bethlehem Steel.

In that whole corridor, you had good people making good wages, making things, making products, and, overall, employing somewhere over 35,000 people.

Well, that is gone, Mr. President. Bethlehem Steel is down to 12,000. General Motors that once employed six is down to four. We are hoping they do not move out of town.

Guess what is gone completely? Western Electric, 4,000 jobs that employed men and women. I might add, a substantial number of women, long before there were equal opportunity provisions for women. Those jobs are gone.

What do we have now? Well, we were promised a cornucopia of competition; that only if we had competition, we would have cornucopia for the consumer. Well, this is one little consumer that never found that cornucopia. I found confusion in the marketplace. I have never received a break on my telephone bill. All these cheap, long-distance rates I was supposed to have, never, ever happened. I was deluged by Sprint, MCI, and all kinds of companies. But I only found high prices.

And then, to this day, I still get several different kinds of bills, one from AT&T and one from a local telephone company. It is now 5 years later, and I still do not know who to call if something goes wrong.

I think, if you do not get a dial tone, you call the telephone company. If you cannot trace it—what time do I have to trace? You have to go out and see if something is wrong with the pole. If something is wrong with this pole, it becomes AT&T.

So cornucopia competition has not meant anything for me. I will tell you what it has meant to me as a Senator: 4,000 men and women who worked at Western Electric Co. are gone; 4,000 people who got up every day and went to work, earned a living, earned livings at AT&T levels, working class people, and had the opportunity to even have a pension and stock options, and to this day there are people in my community that are on retirement from their Social Security, their Western Electric pension, and some of the dividends coming out of that stock.

So where are we now, and what does that mean? I have been carrying this frustration around for 5 years, ever since we lost the divestiture fight. This legislation is the first opportunity to give Americans a break to get back into the manufacturing business.

We have something in here called "domestic content." What does that mean? It means the content has to be from this wonderful country called the United States of America. People are objecting to domestic content. Domestic content means products made in America, and American hands-on putting it together.

I happen to like domestic content. I like domestic content more than foreign content, because domestic content means jobs in my State and in other States.

There are those who say, well, this is going to violate the antitrust provisions.

Mr. President, I am not a lawyer, so I do not know a lot about antitrust, but I do know one thing: The antitrust clause comes from a 19th-century economy when we had to regulate a different kind of economy. Twenty-first-century economics says that maybe instead of trying to comply with out-of-date antitrust laws, we ought to change the antitrust laws. The old arrangement of laboratory manufacturing to customer service is exactly the kind of model the Japanese have and on which they are now beating the zingos out of us in telecommunications.

So I am for this bill because it provides jobs. I am for this bill, because it takes the best ideas that the United States of America does and turns them into products. I am very frustrated that we win the Nobel Prizes with our research, and other countries develop them.

I am glad that the local Bell Cos.—if this bill passes—will get back into making products.

So when my name is called, I am going to vote for this legislation. I am going to vote for it enthusiastically, knowing that it is going to produce jobs and produce telephone products that will be reliable, have American quality control, and be compatible.

So that is why when this legislation comes to final passage, I want everybody to remember Western Electric and remember those 4,000 people who right now—I do not know quite where they are, but I know they are not earn-

ing the same kind of living as when Ma Bell provided jobs.

I yield the floor.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Maryland. She has really stated the case with respect to domestic content, as well as the bill itself.

I am an enthusiastic supporter of the domestic content proceeding, because it is going to make America competitive again, particularly in the field of technology and, thereby provide for the consumers advanced technology services and the improvements that are so much in demand, set out in the Office of Technology Assessment report.

With respect to the domestic content provision, it is intentional. The European Economic Community, as set forth in this letter from the President of the United States, has its own requirements.

I quote from that letter dated March 9, 1990, from the President of the Senate majority and Republican leaders. On page 3, I quote:

> The directive mandates nondiscriminatory and transparent tendering to all producers whose products are at least 50 percent EC origin. It also places a 3 percent price preference on community offers.

This has to do with the European Economic Community in a report and findings that substantial progress has been made and the telecommunications trade talk conducted under section 1375 of the act with the European Community and Korea, and it contains the reasons why an extension of the negotiating period with the European Economic Community and Korea is necessary.

So when they are talking about a veto maybe, or disapproval of this measure on account of domestic content, we live in the real world. Would it not been grand if the Europeans and other countries had no tariffs or barriers or governmental action? But the market is full of it all. Antitrust is one provision that, in a sense, has outlived, to some extent, its usefulness. We used to look upon size as a no-no. In order to survive here in the international competition, you are going to have to have substantial size if you are going to survive.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

Mr. GORTON. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. No, it is not.

Mr. GORTON. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1216 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I have inquired of the manager of the bill, my good friend from South Carolina, and I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CIVIL RIGHTS BILL

Mr. SIMPSON. Mr. President, just two brief items before I get back to the matter at hand. I will be glad to yield at any point, but I shall just be a few minutes.

I wanted to discuss the latest compromise civil rights bill being offered by the proponents of H.R. 1, the Civil Rights Act of 1991, and that debate, of course, is taking place this day.

I feel that the proponents of that bill are simply trying to mislead the American public into thinking that that bill does not cause quotas. I have introduced a bill for the consideration of the Senate. Our good friend from Missouri has done that; others; Senator DOLE. There are many proposals presented.

We all realize, I think without any question, that the only way you get an appropriate civil rights bill is with a bipartisan approach. And I think the effort with H.R. 1 in the House is a deception that will not prevail. The substance of H.R. 1 would leave U.S. employers with no alternative but to hire by quota, pure and simple. However, the proponents of H.R. 1 have, I think, a clever little shell game going on there. They tell us that their bill is not a quota bill and then point to specific language in H.R. 1 which reads thusly:

> Nothing in the amendments made by this act shall be construed . . . to require, encourage, or permit an employer to adopt a hiring or promotion quota on the basis of race, color, religion, sex, or national origin.

Mr. President, that language appears in section 111 of H.R. 1. However, it does absolutely nothing to change or overrule the rest of H.R. 1. The quota-inducing language is in section 102 and nowhere does H.R. 1 specifically overrule section 102.

In effect, then, section 102 of H.R. 1 essentially holds a loaded gun to the head of most employers—the loaded gun of expensive litigation—and it tells them this: "If you are smart and you want to avoid costly lawsuits, you'll use quotas." So what does H.R. 1's "antiquota" language mean? I think it means absolutely nothing. Zip. Nothing.

The new antiquota language reminds us of that old and jaded story of the emperor's new clothes, how the Emperor wandered among his subjects—in what he said were his fine new clothes—but what, in reality, was "no clothes" at all, until a young man pointed that out.

Well, if the emperor's advisers were the proponents of H.R. 1, they would tell him, "Why don't you hang a little sign around your neck, Emperor," and the sign might say:

> Nothing in the emperor's wardrobe shall be construed to require, encourage, or permit one of the emperor's subjects to believe that the emperor is really stark naked.

Mr. President, that is just how absurd this claim is that H.R. 1 is not a quota bill.

So I think it is at least time for all of the good subjects in the great kingdom of "Inside the Beltway" to come out and have the courage of the young boy to speak out on the plain and very obvious truth that "the emperor is still naked and H.R. 1 is still a quota bill"—"is now, and ever shall be, world without end, amen," as we say in my particular faith.

Enough of that.

HOW TO FEED IMMIGRATION WILDINGS

Mr. SIMPSON. Mr. President, just briefly if I may make a comment with regard to a recent Wall Street Journal editorial. I have always had a great deal of difficulty with the editorial staff of the Wall Street Journal. I have accused them of various lapses in brainpower and skill and journalistic expertise. But, it does not drip down into their reportorial crew. I think they have a fine reporting staff. I have known many of them: Al Hunt and Jim Perry and many others, for whom I have the highest respect and regard. But I noted recently the Wall Street Journal had written another rather puerile and bone-headed editorial on immigration, which they do with great gusto every now and then, blaming the recent disturbance in the Mount Pleasant neighborhood of Washington—a very vexatious thing to all of us—on the original immigration legislation which was originally sponsored by my dear friend, Congressman ROMANO MAZZOLI, and myself.

In calling the recent violence a "Simpson-Mazzoli riot," the Journal once again, I think, reveals what its base wishes really are, and they are, No. 1, open borders. That is their feeling: Open borders in order that more and more illegal immigrants may enter the United States and work; Under what conditions it is not important, just so they do their good-old work. No. 2, large-scale employment of illegal aliens, so millions of these aliens may be kept in a form of slave labor by U.S. employers, in order to meet the Journal's own peculiar and long-held version of "free market capitalism.".

I, too, consider myself to be a "free market capitalist," but I surely do not favor giving employers such a crude and cruel leverage over illegal aliens that these people will be afraid to ask for decent wages or working conditions or else they risk sure and certain and swift deportation. And I believe most Americans might agree with me that the open border situation which the Journal advocates is certainly not in "the national interest."

So I would, if I may, Mr. President, have printed in the RECORD a column by Richard Estrada, a highly respected columnist for the Dallas Morning News, who has written a most interesting column concerning the Journal's comments about the Mount Pleasant riots and the Simpson-Rodino-Mazzoli legislation. Mr. Estrada argues that the Journal itself should be the entity to "take credit" for the adverse social conditions in Mount Pleasant that led to the violence on May 5, 1991. And Mr. Estrada says:

> The Nation should pause and give credit where credit is due. First, there's the Wall Street Journal, which has consistently opposed any meaningful measure to control illegal immigration, successfully backed huge increases in legal immigration, and now seeks repeal of employer sanctions.

I commend Mr. Estrada's column to my colleagues and to Americans concerned with our immigration problems, and I ask unanimous consent his May 17, 1991 editorial, "How To Feed Immigration Wildings" be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. Mr. President, the Wall Street Journal makes it a rather religious habit of not printing my letters to the editors, even though they are written all by myself. I find that to be rather unfair, but I assure you that bias is not unusual at all for them. I believe this inherent editorial bias and unfairness imbues and colors their entire perspective on all immigration issues.

Their credo is, "Let's do whatever we think is good for good old American business, no matter how unfair or repugnant it is to illegal aliens and to other Americans."

Fortunately, most Americans are smart enough to know better than to swallow that old line of pure guff.

I now yield the floor.

EXHIBIT 1

[From the Dallas Morning News, May 17, 1991]

HOW TO FEED IMMIGRATION WILDINGS

(By Richard Estrada)

Several months ago, two young Mexicans stopped me in a Dallas parking lot and asked me for money. They had crossed the border illegally, and now found themselves down on their luck. Nobody would hire them. In the sing-song Spanish of Mexico City, one of them explained: "It's that Simpson-Rodino law."

The 1986 law to control illegal immigration made the newspapers again recently after Hispanic aliens in the Mount Pleasant neighborhood of Washington, D.C., set off two days of riots. By most accounts, street violence began on May 5 after a female police officer shot a drunken, knife-wielding Salvadoran immigrant who had lunged at her.

Enter the Wall Street Journal. A Journal editorial of May 10 said the riot "was sparked by an alleged abuse of force by a police officer against an immigrant" and let it go at that. The piece went on to term the disorders the "Simpson-Mazzoli" riots—which was to say that because the employer sanctions law that fines employers for hiring illegal aliens is allegedly causing discrimination against Hispanics legally authorized to work, they rioted not that rioting is right, mind you.

However, in addition to getting the name of the law wrong (that's Simpson-Rodino) the *Journal* provided no specific link between discrimination and the rioting. As it turns out, the rioters were complaining not so much about the lack of work, but about not being given more attractive jobs. They also wanted the right to drink beer on the street and in the parks; free restaurant service; and the right to park their cars anywhere they wanted. The *Journal* also failed to note that by no means all of the rioters were aliens; perhaps half were U.S. citizens of African descent, and a few whites joined in.

The inner cities of the nation are seriously over crowded. Ironically, nothing is worsening the competition for jobs, social services and affordable housing more than immigration. Economist George Borjas notes that a 10 percent increase in national immigration results in the doubling of the immigrant population in that handful of U.S. cities in which they settle.

While it's true that the General Accounting Office has alleged discriminary impact stemming from employer sanctions, the Journal failed to mention that the GAO's conclusions have come under fire because the agency had no baseline study to show the degree of anti-Hispanic discrimination before employer sanctions. The GAO may have caved in to political pressure on this one.

Item: Nearly every poll ever taken of Hispanic public opinion has found that Hispanics desire greater immigration controls, up to and including fines against employers who hire illegal aliens. Illegal labor market competition appears to be what's bothering most Hispanics.

Immigrant workers are real, live people, with dreams, frustrations and families. But that is a fact to be appreciated before making the decision to import them, not afterward.

The nation should pause and give credit where credit is due. First, there's the *Wall Street Journal*, which has consistently opposed any meaningful measure to control illegal immigration, successfully backed huge increases in legal immigration and now seeks repeal of employer sanctions. Then, there's Sen. Dennis DeConcini, D-Ariz., and Rep. Joseph Moakley, D-Mass., who last year wrangled yet another immigration amnesty, this one for Salvadoran illegal aliens.

And let's not forget the Mexican American Legal Defense and Educational Fund (MALDEF), the National Council of La Raza ("The Race"), the League of United Latin American Citizens (LULAC, one of whose officials was recently charged with bilking illegal aliens out of thousands of dollars) and the archbishop of Los Angeles, Roger Mahony, who a little more than three months ago officiated at the funeral of 34-year-old Tina Kerbrat.

Tina Who? Tina Kerbrat—she's the Los Angeles police officer who died on Feb. 11, after having been shot in the face by another drunken Salvadoran illegal alien across the continent from Mount Pleasant, in the mother of all illegal immigration sanctuaries, Los Angeles.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. BRADLEY. Mr. President, I rise today in opposition to the bill introduced by my distinguished colleague from South Carolina, Senator HOLLINGS. My opposition is somewhat reluctant. First, because I share the goal of strengthening America's telecommunications industry, and second because the bill pits the Regional Bell Operating Cos. against AT&T. Both of them—both in this case New Jersey Bell and AT&T—are great contributors to economic growth in the Nation and especially in the State of New Jersey.

I cannot support the bill as it exists, however, because of my great concerns that the mechanisms that this legislation uses to stimulate American competitiveness will be at best ineffective and at worst counterproductive. Furthermore, I am concerned that we have not learned the lesson that markets are more efficient regulators than regulators themselves. It is difficult for markets to be competitive when manufacturers sell to themselves.

The antitrust action which broke up AT&T was based on the premise that because AT&T controlled the bottleneck monopoly at the consumer level it was in a position to engage in anticompetitive behavior in its relations with its suppliers. That is the basic case. AT&T, the Government case argued, and the courts agreed, had taken advantage of its bottleneck monopoly by providing Western Electric, its manufacturing subsidiary, with more timely, accurate, and complete information about technical needs than the information provided to any competitors.

Furthermore, since AT&T's profits were determined by a regulatory formula which was based on AT&T's costs, there was an incentive to shift costs into the rate base. AT&T did this by shifting the cost of research, design, development, and manufacturing into the basic telephone network. In other words, onto the bills of consumers.

As a result, competition was stifled by the control that AT&T exercised and the ability of Western Electric to sell its products at below the cost of even making them. Consumers absorbed the direct cost of this subsidy in their telephone bills, as I have just stated, and, in essence, AT&T was self-dealing and the consumers were hurt, which is exactly what would happen if S. 173 were to become law, self-dealing and the consumers hurt.

Where were the regulators in all of this? Well, the FCC tried to conduct investigations. The States tried to exercise their authority to examine local telephone subsidiaries of AT&T. But none had jurisdiction over the manufacturing affiliates and no one could document the subsidies that were pervasive in this monopolized system. A significant step in what ultimately broke up the telephone monopoly was the court's rejection, in 1976, of AT&T's claim that the FCC had extensive and effective oversight over their activities and that it was impossible for them to engage in the alleged competitive abuse.

AT&T urged the courts to continue to rely on the regulators. In other words, regulators could solve the problem. But when the monopoly was broken up, the continued existence of the bottleneck monopolies was recognized as a continuing problem. In other words, the regulators could not solve the problem and the court decided, and the parties to the agreement, that AT&T would be broken up.

Central to ensuring that the problem of anticompetitive behavior and rate base abuse did not recur was the imposition of restrictions on the companies that would not control the bottleneck monopolies, the seven Regional Bell Operating Cos. or the RBOC's, as they are called. They were prohibited from providing long distance service, information services, or engaging in manufacturing.

The restriction, however, does not preclude the RBOC's from engaging in a number of activities related to design and manufacturing such as market research, providing generic specifications, selecting an exclusive manufacturer, funding product development, or selling consumer premises equipment. None of those are excluded by the court agreement.

Some of these allowed areas of activity have, indeed, thrived. Bellcore Labs of New Jersey, for example, is a testament to this policy. I was struck by the statement of the vice president of technology systems for Bellcore, cited in the minority views of Mr. INOUYE contained in the report on S. 173.

He describes the post-divestiture environment as marked by—his words, vice president of Bellcore—a major progress towards the opening of the telecommunications marketplace through the free flow of information on architectures, requirements, and interfaces. The response has been an outpouring of products that Bellcore's clients—that is the RBOC's—are using to grow and to evolve their networks, to provide existing services more economically than heretofore and to provide new services.

He goes on to cite that the supplier database, the telecommunications supplier database, has grown from 2,000 companies in 1984 to 9,000 companies in 1989.

How could Bellcore be affected by S. 173? Proponents have argued that since the RBOC's would be manufacturers, they would invest more in Bellcore.

However, if each RBOC had a competing manufacturing affiliate, what incentive would these competitors have to contribute to a common R&D pool? On the contrary, individual RBOC's would focus their R&D resources on their own projects, not on research that would be shared with their competitors.

Furthermore, this argument forgets that Bellcore is a special institution, exempted from antitrust laws specifically because its clients, the RBOC's, are precluded from engaging in manufacturing. If the regional companies had manufacturing affiliates, then antitrust laws would prohibit the sharing of R&D costs by competing manufacturers. S. 173 might put Bellcore out of business, not bring more in R&D.

The expanding telecommunications market and network of suppliers from 2,000 to 8,000 in about 5 years is the direct result of the free and open competition to supply the needs of the regional operating companies. Since they do not have an in-house supplier to whom they have every incentive to rely on, the RBOC's have used their size, resources, and technical expertise to essentially be investive money machines for one of America's fastest growing and most important industries.

S. 173 threatens that success. Instead of a thriving industry, we could very well end up with a self-dealing, cross-subsidy, and anticompetitive behavior.

Proponents of this bill present a dark vision of America's role in the international telecommunications market. In fact, the international market for high-end telecommunications is rapidly expanding and American firms are the No. 1 benefactors of its growth.

Our trade surplus—underlined surplus—in switches, network needs, and other sophisticated technology has grown from $115 million in 1988 to $710 million in 1990, a 500-percent increase. The deficit in telecommunications is in consumer products equipment. But even if we include consumer premises equipment—the telephones and fax machines—the U.S. trade deficit has declined from $2.6 billion in 1988 to $800 million in 1990.

How will S. 173 change the situation? Proponents hope that the RBOC's intimate knowledge of the telecommunications network and their tremendous capital and human resources will make them strong players in the international telecommunications market.

Frankly, I am concerned that S. 173 may have the opposite effect. The two qualities that RBOC undeniably possess—their intimate knowledge and tremendous resources—are exactly the reasons that AT&T was able to engage in anticompetitive behavior and abuse of the rate base.

The regional operating companies will get a share of the telecommunications market but that may come at the expense of other manufacturers and not increase the overall total. Even if each regional operating company only captures 10 percent of the market, that is 70 percent of the total that will be foreclosed to competitors by the unfair advantage that the regional operating companies have by virtue of their regulated bottleneck monopolies.

So it could very well have the opposite effect as the proponents of this bill contend.

S. 173 will clearly change distribution within the pie, but it will not make the pie any bigger.

Another way that S. 173 hopes to improve the structure of the telecommunications market is through a domestic content provision. That provision has many loopholes that are provided by the bill and those loopholes probably make a bad situation worse. The regional operating companies may use parts manufactured abroad but must certify to the FCC that it has made a good-faith effort to obtain equivalent parts in the United States and that the cost of these parts is less than 40 percent of the sales revenue derived from that equipment.

Each year, the FCC and the Secretary of Commerce shall determine what percentage of the revenues come from each RBOC. The FCC can impose penalties if it deems a firm is in violation, and any supplier claiming that the supplier did not make "a good faith effort" to buy the components in the United States can file a complaint with the FCC or can sue the affiliate for damages caused by the manufacturing affiliate's actions.

If I understand this correctly, if I am an American firm that makes a part that a telecommunications manufacturer can use, and that telecommunications manufacturer decides a better and cheaper part is made by a competitor of mine that happens to be owned

or based overseas, then I can sue the manufacturer for choosing a better and cheaper part than mine.

The only American industry that I see being made more competitive by this provision is the legal industry, not telecommunications.

Just as this bill would be a boon to lawyers, it would be a bust to all consumers of telephone services. It has been argued here that S. 173 contains more than adequate safeguards against abuse of the rate base through cross-subsidization. That has been the argument made countless times. It has been said that we should rely on the regulators to prevent the regional operating companies from taking advantage of their bottleneck monopoly.

It has a strange ring of familiarity to it. It sounds just like the arguments that AT&T made when the Government began to press its case. Let the regulators take care of it.

If there is any lesson that we should have learned in the past decade, it is that the markets are much better regulators than the regulators themselves. Even if the FCC can track direct subsidies, which is a major question, how will the regulators monitor the indirect subsidies provided through cost allocation and the shifting risks from competitive to monopoly ventures? For example, how will the FCC allocate the cost of training and the salary of regional operating employees who are working, laying out the generic specifications for the product and regional operating affiliate develops?

How will the FCC determine what percent of the increase in a regional operating company's cost of capital is due to the perception that it is affiliated, is engaged in financially risky activities?

All of these are enormously complicated questions. They are now answered by this bill. And the answer is they will not be regulated.

To be quite frank, the honest answer is—I should say the most honest answer is that no matter how sophisticated their tracking and reporting techniques, the regulators will never establish solid answers to these questions.

Ironically, proponents of eliminating the manufacturing restrictions point to the FCC's success in auditing the manufacturing arm of NYNEX.

The rate base abuse and cross subsidization that was taking place at material enterprises, however, was not revealed by sophisiticated financial analysis technique. It was not revealed by an audit team sleuthing for the regulator and discovering the abuse. No. It came to light only because an employee leaked the story to the Boston Globe. And even then the FCC was not able to act until 5 years after the violations occurred. And we are going to depend on regulators in this matter? It just will not be successful.

If we have learned the lesson that markets are more efficient regulators than regulators, if we ask whether this would increase the size of the telecommunications market or just shift business to the regional operating company, if we are concerned about the impact of cross-subsidization on the telephone consumer, then the right decision would be to retain the manufacturing restrictions on the regional operating companies.

Unfortunately, that is not what this bill does, and that is why I will oppose the legislation.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRISIS IN YUGOSLAVIA

Mr. MOYNIHAN. Mr. President, recently the esteemed Flora Lewis wrote of the ongoing crisis in Yugoslavia. She noted that this extreme example of ethnic conflict may well be a harbinger of things to come, that success or failure in this case may establish a pattern for other similar disputes which are bound to arise. She closed her article with this warning: "It is a test of whether the new Europe can keep its own order, with implications far beyond Yugoslavia."

I commend this cogent article to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 31, 1991]

HOW TO STOP A CIVIL WAR

(By Flora Lewis)

ZAGREB, YUGOSLAVIA.—The shouting match among Yugoslavia's ethnic rivals is becoming a shooting match.

Some Croatian leaders say the warning that civil war looms is only "Serbian propaganda" and that the country can and should peaceably break up into independent states. In vowing yesterday to secede from Yugoslavia by June 30 unless the turmoil dividing the country is solved, Croatia confidently asserted to the world that it can prosper on its own.

Tensions and tempers are high. There are minorities in too many places and interests are too intertwined to solve the dispute by redrawing maps. The U.S. and the European Community have made clear they will not support the breakup of Yugoslavia, as the President of the European Community Commission, Jacques Delors, repeated yesterday.

But the nationalists aren't listening. They shout past one other with such intensity that nobody knows what the arguments come down to any more. They are choking themselves with history, and as always when history becomes the tool of polemics it exacerbates conflict. Like statistics, history can be made to prove any point. It is true that the creation of Yugoslavia after World War I was an artifice to deal with the dissolution of the Austro-Hungarian empire, a rich stew of peoples that never became a melting pot.

Now, the Serbs want either to maintain firm central powers or to achieve the old dream of a Greater Serbia at the expense of their ethnic rivals. Croatia and Slovenia want independence, in an alliance of soverign states, or on their own. Others take sides, according to their hopes for benefit.

This month the U.S. dabbled with cutting off aid to Yugoslavia in an attempt to shock people to their senses, specifically citing Serbian human rights abuses against Albanians in the province of Kosovo. But Prime Minister Ante Markovic, whose economic reform program has been blocked by feuding republics, pointed out that sanctions would only accelerate a collapse. Slovenia and Croatia took it as all the more reason to break with Serbia, since it had provoked the punishment. Washington called off its aid suspension last week.

Yet, there is little chance of the Yugoslavs coming to terms among themeslves. The tide has to be turned from outside, a delicate matter.

This is an urgent case for the new peacekeeping machinery set up last November by the Conference on Security and Cooperation in Europe. The C.S.C.E. has no power, and ostensibly its concern is international disputes, not conflict within states.

But Europe has to be concerned with a crisis that is likely to spill over to neighboring countries. The C.S.C.E. should set up a commission to listen to all sides, identifying issues and reporting the points of contention. It could be a safety valve and provide a cooling-off period.

Rather than government representatives, it should be a group of eminent people experienced in state-craft. It's an idea that provokes interest here. Some names that have come up include Lord Carrington, Eduard Shevardnadze, Helmut Schmidt and Valery Giscard d'Estaing.

It is possible that with encouragement, the Yugoslav Government or one or more of the republics will invite such an initiative from the Conference on Security and Cooperation in Europe. If not, the organization should propose it.

A basic C.S.C.E. principle is that borders cannot be changed by force. If this could be made to apply to the republics' borders, it would go far toward satisfying Croatia and Slovenia. Serbia would object at first, but it might be persuaded in return for assuring the integrity of the Yugoslav state.

It is a test of whether the new Europe can keep its own order, with implications far beyond Yugoslavia.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,271st day that Terry An-

derson has been held captive in Lebanon.

As we debate the merits of granting most-favored-nation status to the People's Republic of China on this anniversary of the massacre at Tiananmen Square, our thoughts turn to the rights of man and the the rule of law. The question is not whether there are human rights abuses in China, rather the question is whether to condition China's trade status on compliance with international standards. A most important debate, indeed.

I raise my voice at this point, however, to remind my colleagues of other abuses of rights and law. Of the innocent people held against their will in Lebanon and around the world. Hostage taking is not only immoral, it is categorically forbidden under international law. And I call on all parties holding hostages to release them.

VIOLENCE IN LITHUANIA

Mr. DIXON. Mr. President, a most curious report came out of the Soviet Union today. The Soviet Prosecutor General, Nikolai Trubin, reported that the investigation into the violence and mayhem in Vilnius, Lithuania, last January that became known as Bloody Sunday was not caused by Soviet military troops. I underline not.

He claims that it was not caused by Soviet military troops. In fact, Mr. President, according to the report in this morning's New York Times "The victims had not been crushed by tanks or shot by (Soviet) troops * * * but they were shot and killed by 'Lithuanian militants.'"

The report, Mr. President, is remarkable in its insistence on a bald-faced lie. Mr. President, I have here a videotape. I hope every Senator that may be watching television in his or her office will look at this. I have here a videotape, Mr. President, taken of the murder and the violence inflicted against unarmed Lithuanians by armed Soviet military black beret troops. This videotape, Mr. President, reveals it all.

There is no question as to who were the aggressors, and who the unarmed individuals are. I have seen this video, Mr. President. It is brutal, a brutal video.

My staff showed it some time ago to anyone who wished to view it. I want to say to every Senator, and every Senator who wants a staffer to look at this, here is the videotape you ought to see.

The images of the Soviet troops using rifle butts and nightsticks, of tanks rolling over women and men, who did not even have sticks with which to defend themselves, of the injured and overburdened Vilnius hospitals, recalled the brutality I spoke about in Tiananmen Square that we commemorated earlier today.

Should any of my colleagues or their staffs wish to view this video Mr. President, I will be happy to share it with them. The camera does not lie. The Soviet Prosecutor General lies. It must be noted that this report is timed to blunt any criticism that may greet Soviet President Gorbachev in Oslo as he delivers his delayed Nobel Peace Prize lecture. What a laugh—this despite the increase in Soviet interior ministry troop violence against Baltic border posts and the deployment of troops around Vilnius last night.

Mr. President, I am struck by the issuance of a report so far from the truth it reaffirms the concerns and fears of Americans around the country who believe that our inching toward an embrace of the Soviet Union is terribly premature. If the Soviets can so blithely dimiss the bloody reality of January 13, 1991, can we then take any assurance from Moscow about democratization, about reform, about immigration policy? I think not.

I urge the administration to condemn this outrageous report. I remind the Soviets that any improvement of relations with the Soviet Union is predicated on our insistence that they abide by international standards of human rights and stop the military intimidation and oppression of the Baltics.

Mr. President, I just want to say this to my colleagues in conclusion. A couple of weeks ago I had the honor and privilege of going to the University of Illinois, Chicago campus. Many thousands of Lithuanian-Americans were there playing music, singing songs, marching with their children in that auditorium, thousands of them pledging allegiance to our country and its flag, and remembering their own country.

And it does violence, Mr. President, to our way of life for us to permit and to condone this kind of conduct against innocent people. That annexation of those three Baltic States over half a century ago has never been recognized by our country. It never will be recognized. And the time has come to give recognition to those States.

Those countries, and those millions of people who want to be free, who love the democratic institutions we love, are being brutalized. And we stand here silent. It is an outrage, Mr. President.

I thank the distinguished manager for letting me make that record. I say to every staff person of every Senator representing the interests of our great Nation, who loves this great Nation of ours, every one of them ought to look at this, look at the brutality involved in it, against innocent people in Lithuania by the Soviets. This outrageous lie ought to be condemned by the U.S. Senate.

I yield the floor.

TECHNICAL AMENDMENTS TO VARIOUS INDIAN LAWS ACT

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 98, S. 1193, regarding technical amendments to various Indian laws.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1193) to make technical amendments to various Indian laws.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 282

(Purpose: To delete provision amending Hoopa Yurok Settlement Act)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk in behalf of Mr. INOUYE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. INOUYE, proposes an amendment numbered 282.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike lines 8 through 21.

On page 3, line 22, delete "4" and insert "3".

On page 4, line 15, delete "5" and insert "4".

On page 4, line 6, delete the word "shall" and insert in lieu thereof the word "may".

On page 2, strike lines 18 through 24 and insert in lieu thereof the following:

"(F) If, during the one-year period described in subparagraph (B) there is a final judicial determination that the gaming described in subparagraph (E) is not legal as a matter of State law, then such gaming on such Indian land shall cease to operate on the date next following the date of such judicial decision."

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 282) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technical Amendments to Various Indian Laws Act of 1991".

SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGULATORY ACT.

(a) EXTENSION OF TIME FOR OPERATION OF CERTAIN GAMING ACTIVITIES.—Section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703) is amended by adding at the end of paragraph (7) the following new subparagraphs:

"(E) Notwithstanding any other provision of this paragraph, the term 'class II gaming' includes, during the 1-year period beginning on the date of enactment of this subparagraph, any gaming described in subparagraph (B)(ii) that was legally operated on Indian lands in the State of Wisconsin or Montana on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated requested the State, by no later than November 16, 1988, to negotiate a Tribal-State compact under section 11(d)(3) of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)(3)).

"(F) If, during the 1-year period described in subparagraph (E), there is a final judicial determination that the gaming described in subparagraph (E) is not legal as a matter of State law, then such gaming on such Indian land shall cease to operate on the date next following the date of such judicial decision.".

(b) REAUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL INDIAN GAMING COMMISSION.—Section 19(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2718(b)) is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of section 18, there is authorized to be appropriated such sums as may be necessary to fund the operation of the Commission for each of the fiscal years beginning October 1, 1991, and October 1, 1992.".

SEC. 3. AMENDMENTS TO THE INDIAN LAND CONSOLIDATION ACT.

Section 204 of the Indian Land Consolidation Act (25 U.S.C. 2203) is amended—

(1) by deleting "(1) the sale price" and inserting in lieu thereof "(1) except as provided by subsection (c), the sale price"; and

(2) by adding immediately after subsection (b) the following new subsection:

"(c) The Secretary may execute instruments of conveyance for less than fair market value to effectuate the transfer of lands used as homesites held, on the date of the enactment of this subsection, by the United States in trust for the Cherokee Nation of Oklahoma. Only the lands used as homesites, and described in the land consolidation plan of the Cherokee Nation of Oklahoma approved by the Secretary on February 6, 1987, shall be subject to this subsection.".

SEC. 4. AMENDMENT TO THE ACT ENTITLED "AN ACT TO PROVIDE FOR THE ALLOTMENT OF LANDS OF THE CROW TRIBE, FOR THE DISTIBUTION OF TRIBAL FUNDS, AND FOR OTHER PURPOSES".

Section 1 of the Act entitled "An Act to provide for the allotment of lands of the Crow Tribe, for the distribution of tribal funds, and for other purposes", approved June 4, 1920 (41 Stat. 751) is amended by inserting immediately after "*Provided*, That any Crow Indian classified as competent shall have the full responsibility of obtaining compliance with the terms of any lease made", a comma and the following: "except for those terms that pertain to conservation and land use measures on the land, and the Superintendant shall ensure that the leases contain proper conservation and land use provisions and shall also enforce such provisions".

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the bill was passed, and I move that the motion be laid on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 135 AND SENATE RESOLUTION 136

Mr. HOLLINGS. Mr. President, I send two resolutions to the desk, and I ask unanimous consent that they be considered and agreed to en bloc, that the motions to reconsider be tabled en bloc, and that their consideration be shown separately in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution considered and agreed to en bloc are as follows:

S. RES. 135

Resolved, That paragraph 2 of Rule XXV of the Standing Rules of the Senate is amended as follows:

Strike "16" after "Environment and Public Works" and insert in lieu thereof "17".

Strike "18" after "Foreign Relations" and insert in lieu thereof "19".

Strike "14" after "Governmental Affairs" and insert in lieu thereof "13".

That paragraph 3(a) of rule XXV of the Standing Rules of the Senate is amended for the One Hundred Second Congress as follows:

Strike "18" after "Small Business" and insert in lieu thereof "19".

S. RES. 136

Resolved, That the Senator from Pennsylvania (Mr. WOFFORD) is hereby appointed to serve as a member on the Committee on Environment and Public Works, the Committee on Foreign Relations, and the Committee on Small Business.

TO MAKE A MINORITY PARTY APPOINTMENT TO THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HOLLINGS. Mr. President, on behalf of the distinguished minority leader, the distinguished Senator from Kansas [Mr. DOLE] I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 137) to make a minority party appointment to the Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 137) was agreed to.

The resolution is as follows:

S. RES. 137

Resolved, That the following Senator (Mr. CHAFEE) shall be added to the minority party's membership on the Senate Committee on Banking, Housing and Urban Affairs for the One Hundred Second Congress until November 6, 1991.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPORT ON THE NATION'S ACHIEVEMENTS IN AERONAUTICS AND SPACE—MESSAGE FROM THE PRESIDENT—PM 54

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

It is with great pleasure that I transmit this report on the Nation's achievements in aeronautics and space during 1989 and 1990, as required under section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476). Not only do aeronautics and space activities involve 14 contributing departments and agencies of the Federal Government, as represented in this report, but the results of this ongoing research and development affect the Nation as a whole.

In 1989 and 1990 we successfully conducted eight space shuttle flights, deploying the Magellan Venus probe, the Galileo Jupiter probe, the Syncom IV Navy communications satellite, and the Hubble Space Telescope and retrieving the Long Duration Exposure Facility. The successful launch of 28 expendable launch vehicles put into orbit a wide variety of spacecraft including the Cosmic Background Explorer and the Roentgen satellite. In addition, many ongoing activities contributed to the period's achievements. The Voyager 2 encounter with Neptune capped off the highly successful 12-year Voyager program; the Tracking and Data Relay Satellite System became fully operational; the Defense Advanced Research Projects Agency sponsored a commercially developed first launch of the Pegasus Air-Launched Space Booster; the Department of Commerce continued studies on ozone, cloud occurrence, and snow cover—factors critical to our study of climate change; the Federal Aviation Administration strengthened aviation security by deploying the advanced Thermal Neutron Analysis system for detecting explosives in baggage; the Smithsonian Institution contributed greatly to the public's understanding of space research and conducted programs to improve pre-college science instruction; and we helped Soviet Armenians in need of medical assistance by establishing the Telemedicine Space Bridge between U.S. doctors and hospitals in

earthquake-struck Armenia. These are just a few of the many accomplishments produced by our 1989 and 1990 budgets for space ($28.4 billion and $31.8 billion, respectively) and aeronautics ($10.6 billion and $11.4 billion, respectively).

The years 1989 and 1990 were successful ones for the U.S. aeronautics and space programs. Not only did these lead to significant accomplishments in scientific knowledge, but also to improvements in the quality of life on Earth through benefits to the economy, to the environment, and in the defense of freedom. Our mission must be to provide stability in aeronautics and space leadership in an ever-changing international environment.

GEORGE BUSH.

THE WHITE HOUSE, *June 4, 1991.*

MESSAGES FROM THE HOUSE

At 3:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 292. An act to expand the boundaries of the Saguaro National Monument; and

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991".

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 971) to designate the facility of the U.S. Postal Service located at 630 East 105th Street, Cleveland, OH, as the "Luke Easter Post Office".

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2042. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes;

H.R. 2100. An act to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

H.R. 2426. An act making appropriations for military contruction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2427. An act making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day"; and

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week."

The message also announced that pursuant to the provisions of section 4(a) of Public Law 98–399, the Speaker appoints as members of the Martin Luther King, Jr., Federal Holiday Commission the following Members on the part of the House: Mr. WHEAT, Mr. SAWYER, Mr. REGULA, and Mr. FRANKS of Connecticut.

The message further announced that pursuant to the provisions of 20 U.S.C. 42 and 43, the Speaker appoints Mr. MCDADE to the Board of Regents of the Smithsonian Institution on the part of the House, to fill the existing vacancy thereon.

The message also announced that pursuant to the provisions of section 203 of Public Law 99–660, as amended by title IV of Public Law 100–436, the minority leader appoints Mr. GOODLING to serve as a member on the part of the House of the National Commission to Prevent Infant Mortality.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2042. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2100. An act to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; to the Committee on Armed Services.

H.R. 2426. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.R. 2427. An act making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day"; to the Committee on the Judiciary.

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week"; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1310. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 5584 of title 5, section 2774 of title 10, and section 716 of title 32, United States Code, to increase from $500 to $2,500 the maximum aggregage amount of a claim that may be waived by the head of an agency under those sections; to the Committee on Armed Services.

EC–1311. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the annual report on the operations of the Bank for fiscal year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC–1312. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a survey of section 202 and section 8 projects under the National Affordable Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–1313. A communication from the Administrator of the Federal Railroad Administration, transmitting, pursuant to law, a report regarding the advisability and feasibility of requiring automatic train control systems on each rail corridor on which passengers or hazardous materials are carried; to the Committee on Commerce, Science, and Transportation.

EC–1314. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, notice of leasing systems for the Beaufort Sea, Sale 124, scheduled to be held in June 1991; to the Committee on Energy and Natural Resources.

EC–1315. A communication from the Independent Counsel, Office of the Independent Counsel, transmitting, pursuant to law, a report on status of appropriated funds for fiscal year 1991; to the Committee on Governmental Affairs.

EC–1316. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report on civil monetary penalty assessments and collections for fiscal year 1990; to the Committee on Governmental Affairs.

EC–1317. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the semiannual report of the Office of Inspector General of the Board for the period October 1, 1990 through March 31, 1991; to the Committee on Governmental Affairs.

EC–1318. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation entitled the "Money Laundering Improvements Act"; to the Committee on the Judiciary.

EC–1319. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, to establish the Youth Opportunities Unlimited Program, and for other purposes; to the Committee on Labor and Human Resources.

EC–1320. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the National Center on Educational Statistics entitled "The Condition of Education, 1991"; to the Committee on Labor and Human Resources.

EC–1321. A communication from the Secretary of Education, transmitting a draft of proposed legislation to reauthorize the program for infants and toddlers with disabilities under part H of the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Labor and Human Resources.

EC–1322. A communication from the Secretary of Education, transmitting a draft of proposed legislation to amend the School Dropout Demonstration Assistance Act of 1988, and for other purposes; to the Committee on Labor and Human Resources.

EC–1323. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report of the Helen Keller

National Center for the Deaf-Blind Youths and Adults for the 1990 program year; to the Committee on Labor and Human Resources.

EC-1324. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to authorize the Secretary of Veterans Affairs to accept gifts for the benefit of all Departmental programs; to the Committee on veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-91. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 554

"Whereas the Defense Department has begun a program with a code name of Operation Quick Silver to reduce the size of its force structure; and

"Whereas the Illinois Army National Guard as presently constituted stands ready to assist the people of this State in many ways, such as providing medical emergency response capabilities during a major disaster; and

"Whereas plans currently call for the elimination of some 6,800 part-time positions and some 400 full-time jobs in Illinois alone, representing $55 million in lost salaries; and

"Whereas Defense Department cuts made in Operation Quick Silver could place in jeopardy up to 28 Guard armories in this State; and

"Whereas the State of Illinois could lose $2.3 million in State tax revenue if Operation Quick Silver proceeds as planned; and

"Whereas the 2,330 State scholarships received by Illinois Guardsmen in fiscal year 1991 would be lost if troop cuts take place; and

"Whereas the Illinois National Guard maintains a long and proud tradition of service to the people of this State; therefore be it

"*Resolved, by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois,* That we urge it made known to the Department of Defense our objection to the full implementation of Operation Quick Silver, particularly as it affects units of the Illinois Guard; and be it further

"*Resolved,* That suitable copies of this preamble and resolution be presented to each member of the Illinois Congressional Delegation.

"Adopted by the House of Representatives on May 21, 1991."

POM-92. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Armed Services:

SENATE CONCURRENT RESOLUTION NO. 58

"Whereas England Air Force Base and the 23rd Tactical Fighter Wing played a vital role in the recent Operation Desert Storm to liberate Kuwait; and

"Whereas the Flying Tigers destroyed a full Iraqi armored division of tanks, hundreds of trucks, armored personnel carriers, and heavy artillery pieces; and

"Whereas England Air Force Base employs three thousand active military personnel, one thousand civilians, with four thousand dependents and eight thousand military retirees use the base facilities; and

"Whereas England Air Force Base houses seventy-two military aircraft of the 23d Tactical Fighter Wing; and

"Whereas Louisiana had a large percentage of National Guard personnel, who proudly served in the Persian Gulf, more than any other state in the Union; and

"Whereas the closing of England Air Force Base would have an extremely negative economic impact on central Louisiana's economy to the extent of one hundred forty nine million dollars annually; and

"Whereas the closing of England Air Force Base would be an undeserved reward for the tremendous military effort put forth by the people of Louisiana in Operation Desert Storm; and

"Whereas the people of Louisiana and our military personnel deserve the highest consideration from the Congress of the United States for their service and patriotism: Therefore, be it

"*Resolved,* That the Legislative of Louisiana memorializes the Congress of the United States to show its gratitude to the patriotic men and women of the military and the people of Louisiana who support their effort by keeping England Air Force Base open and vital to the economy of Louisiana; Be it further

"*Resolved,* That a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-93. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Commerce, Science, and Transportation:

SENATE JOINT MEMORIAL 91-4

"Whereas in the waning moments of the 1990 legislative session, the Congress of the United States created a new tax in the form of a fee or charge upon recreational vessels; and

"Whereas this new federal tax on recreational vessels is in addition to increased taxes on gasoline and boat registration fees currently paid by boaters in all states; and

"Whereas additional taxes have a negative impact on state economics; and

"Whereas the estimated seven hundred eighteen million dollars to be collected over a five-year period from boaters as a result of the new federal tax on recreational vessels are not pledged for uses which benefit boaters or the United States' Coast Guard but may be used for any purpose; and

"Whereas the United States House of Representatives voted 287-110 against boat 'use fees' in 1987: Now, therefore, be it

"*Resolved by the Senate of the fifty-eighth general assembly of the State of Colorado, the House of Representatives concurring herein,* That the members of the Congress of the United States are hereby memorialized to adopt House Resolution 534 designed to repeal the new federal tax on recreational vessels before it is implemented: "Be it further

"*Resolved,* That copies of this Memorial be sent to the President of the Senate and the Speaker of the House of Representatives of Congress and the members of the congressional delegation representing the state of Colorado in Congress."

POM-94. A resolution adopted by the Senate of the State of Michigan; to the Committee on Commerce, Science, and Transportation:

SENATE RESOLUTION NO. 92

"Whereas the automotive industry continues to make steady, continuous improvements in the fuel economy of the fleet it offers for sale to the public; and

"Whereas efforts have been made recently in Congress to impose drastic, government-mandated increases in the Corporation Average Fuel Economy (CAFE) standards on the automotive industry for cars and light trucks, calling for a forty percent increase to be achieved by 2001; and

"Whereas a major increase in the CAFE standards would sharply limit consumer's choices of vehicles, limiting them to choose from minicompact, subcompact, and compact cars; and

"Whereas unrealistic standards would seriously reduce the availability of full-size and mid-size vans and pickup trucks—the workhorses of many small businesses and farms; and

"Whereas it has been estimated that significantly higher CAFE standards could cost as many as 300,000 jobs in the United States in the next decade; and

"Whereas higher CAFE standards would do little to enhance our nation's security, as it would reduce oil imports by only one to two percent by the year 2005; and

"Whereas many national safety experts have expressed the opinion that a drastic increase in the standards would increase the risk of fatalities and injuries because of smaller and lighter automobiles, creating a vast difference in vehicle sizes operating on the roads and highways: Now, therefore, be it

"*Resolved by the Senate,* That the members of this legislative body hereby memorialize the Congress of the United States to reject any effort to impose unrealistic government-mandated standards on the automotive industry, thus preserving the freedom of the public to exercise its choice of vehicle to meet its needs; and be it further

"*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-95. A resolution adopted by the Assembly of the State of New Jersey; to the Committee on Environment and Public Works:

"ASSEMBLY RESOLUTION NO. 224

"Whereas the beaches and shores of the Northeastern States, and especially the 127 miles of Atlantic coastline within the jurisdiction of New Jersey, not only constitute a recreational, economic, and social asset of the individual states, but also a precious and irreplaceable natural resource of the nation; and

"Whereas in recent years, the beaches and shores of New Jersey have suffered from increased pollution and erosion, and the response of State, local and federal authorities has been reactive and piecemeal rather than comprehensive, indicating a need to develop long-term, cost-effective solutions to these problems, as well as a need for education and information-sharing among engineers and planners, both governmental and private; and

"Whereas the effectiveness of regulatory and enforcement efforts of the State of New Jersey, diligent as they may be, is necessarily limited by the fact that the State's jurisdiction extends only three miles from its boundary, and that, accordingly, the United States Environmental Protection Agency retains enforcement authority with respect to the overwhelming percentage of violations giving rise to the pollution problem; and

"Whereas environmental pollution is now generally acknowledged to be a national and

interstate phenomenon and, that, therefore, it is vital that Congress take a role in providing funding for the research being conducted to prevent coastal pollution and alleviate beach erosion; and

"Whereas the Alliance for Coastal Engineering has been formed by the Davidson Laboratory, an internationally recognized engineering facility at Stevens Institute of Technology in Hoboken, New Jersey, to conduct research to improve the control of beach erosion and coastal pollution, and to provide educational offerings to engineers and planners employed by private firms and local and State government: Now, therefore, be it

"Resolved by the Assembly of the State of New Jersey:

"1. The Congress of the United States is memorialized to provide funding for the Alliance for Coastal Engineering which has been formed by the Davidson Laboratory at Stevens Institute of Technology in Hoboken, New Jersey, to conduct research to improve the control of beach erosion and coastal pollution, and to provide educational offerings to engineers and planners employed by private firms and local and State government.

"2. Copies of this resolution, signed by the Speaker and attested by the Clerk, shall be forwarded to the Vice-President of the United States, to the Speaker of the House of Representatives, to each member of Congress elected from this State, to the Administrators of the United States Environmental Protection Agency and to the Region II component thereof, and to the Commissioner of the New Jersey Department of Environmental Protection.

"STATEMENT

"The purpose of this resolution is to memorialize the Congress of the United States to provide funding to the Alliance for Coastal Engineering at Stevens Institute of Technology in Hoboken, New Jersey to improve the control of beach erosion and coastal pollution.

"HIGHER EDUCATION

"Memorializes Congress to provide funding to the Alliance for Coastal Engineering at Stevens Institute of Technology for research on controlling coastal pollution and beach erosion."

POM-96. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 103

"Whereas the authority of the president of the United States to negotiate trade agreements under "fast track" authority expires on June 19, 1991; and

"Whereas this "fast track" authority is simply a mechanism which allows the president to speed the approval of trade agreements as the Congress is restricted to an up-or-down vote, without amendments, on any agreement negotiated under this authority; and

"Whereas the Congress initially included the current version of the "fast track" authority for approval of trade agreements in the 1974 Trade Act and reenacted this authority in the 1988 trade legislation; and

"Whereas absent a resolution passed by the Congress to disapprove the "fast track" authority, the authority will be automatically extended for another two years until May 31 1993; and

"Whereas "fast track" authority is essential for the good faith negotiation of a trade agreement with Mexico, and for a possible negotiation of a North American Free Trade Agreement between Mexico, Canada, and the United States; Therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to vote against any resolution which has been proposed to disapprove of the "fast track" authority: Be it further

"Resolved, That the Legislature of Louisiana supports the negotiation of a free trade agreement with Mexico, which would be sensitive to environmental issues, labor markets and conditions, competing industries, and regulatory issues: Be it further

"Resolved, That the Legislature of Louisiana believes that a North American Free Trade Agreement between Mexico, Canada, and the United States would be in the best interest of all parties and therefore strongly urges that a dialogue be established to examine the potential for a trilatral negotiation to take place: Be it further

"Resolved, That a duly attested copy of this Resolution be immediately transmitted to the President of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, to each member of the Louisiana delegation to the Congress of the United States, and to the presiding officer of each house of each state legislature in the United States."

POM-97. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION 41

"Whereas liquefied petroleum gas (LPG) for automotive use is a non-toxic, non-corrosive, lead-free, hydrocarbon fuel that is capable of delivering consistent vehicle performance with clean, smooth combustion under all driving conditions; and

"Whereas the technology exists to affordably convert engines from gasoline to "dual fuel" or "LPG-only" systems, with data from Australia indicating that LPG conversion is a sound proposition for motorists who drive more than 19,000 miles a year or who retain their vehicles for four or five years; and

"Whereas data from Australia also indicate that the initial cost of standard installation for an LPG system can be recouped in less than fifteen months with approximately 19,000 miles of driving a year, and that LPG-powered vehicles are equally safe, if not safer overall, than vehicles with gasoline systems; and

"Whereas although LPG operation involves some loss of power as compared to gasoline operation, the difference between the two is minimal and barely noticeable except under extreme engine load, and because LPG vaporizes completely before it enters the engine, its use results in a smoother application of power across the range of engine operating conditions; and

"Whereas although LPG produces less energy output than gasoline on a gallon for gallon basis and requires up to twenty per cent more fuel by volume to travel a given distance, data from Australia indicate that for every six dollars worth of LPG used, a person must use ten dollars worth of gasoline to travel the same distance; and

"Whereas with growing concerns about the long-term environmental and health effects of air pollution, the ongoing war in the Persian Gulf and the destruction of that region's oil producing capacity, and the ever present danger of catastrophic oil spills, the conversion of automobiles from gasoline to "dual-fuel" or "LPG only" systems should be encouraged; now, therefore, be it

Resolved by the Senate of the sixteenth legislature of the State of Hawaii, regular session of 1991, the House of Representatives concurring, That the Congress of the United States is respectfully requested to provide tax credits to motorists to encourage the conversion of automobiles from gasoline to liquefied petroleum gas; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate and the Speaker of the United States House of Representatives, and the members of Hawaii's delegation to the Congress of the United States."

POM-98. A resolution adopted by the Pinellas County Florida Metropolitan Planning Organization expressing concern over the use of Federal gas tax revenue for non-transportation purposes; to the Committee on Finance.

POM-99. A concurrent resolution adopted by the Legislature of the State of Oklahoma; to the Committee on Governmental Affairs.

"HOUSE CONCURRENT RESOLUTION NO. 1013

"Whereas there are more than 88,000 American service personnel missing in action from World War II, Korea, and Vietnam; and

"Whereas recent information has been released regarding American service personnel held against their will after World War II, the Korean War, and the Vietnam Conflict; and

"Whereas the United States Senate Foreign Relations Committee released an interim report in October 1990 that concluded that American service personnel were held in Southeast Asia after the end of the Vietnam Conflict and that information available to the United States government does not rule out the probability that American service personnel are still being held in Southeast Asia; and

"Whereas on April 12, 1973, the United States Department of Defense publicly stated that there was "no evidence" of live American POWs in Southeast Asia; and

"Whereas the public statement was given nine days after Pathet Lao leaders declared on April 3, 1973, that Laotian communist forces did, in fact, have live American prisoners of war in their control; and

"Whereas no POWs held by the Laotian government and military forces were ever released; and

"Whereas there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of "unresolved" and "discrepancy" cases; and

"Whereas in October 1990, the United States Senate Foreign Relations Committee released an "Interim Report on the Southeast Asian POW/MIA Issue" that concluded that United States military and civilian personnel were held against their will in Southeast Asia, despite earlier public statements by the Department of Defense that there was "no evidence" of live POWs, and that information available to the United States government does not rule out the probability that United States citizens are still held in Southeast Asia; and

"Whereas the Senate Interim Report states that congressional inquiries into the POW/MIA issue have been hampered by information that was conceiled from committee members, or were "misinterpreted or manipulated" in government files; and

"Whereas the POW/MIA truth bill would direct the heads of the federal government agencies and departments to disclose infor-

mation concerning the United States service personnel classified as prisoners of war or missing in action from World War II, the Korean War, and the Vietnam Conflict; and

"Whereas this bill would censor the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones after these many years, now, Therefore, be it,

"*Resolved by the House of Representatives of the 1st Session of the 43rd Oklahoma Legislature, the Senate concurring therein;* That the Congress of the United States is urged to appoint a select committee to assist the United States Senate Foreign Relations Committee in obtaining information in government files.

"That the Congress of the United States is urged to begin immediate committee hearings to consider enacting the POW/MIA truth bill.

"That the Congress of the United States is requested to continue funding of this investigation that is vital to resolving the POW/MIA issue in Southeast Asia.

"That a copy of this resolution be distributed to the Secretary of State, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, and each member of the Oklahoma Congressional Delegation."

POM–100. A resolution adopted by the City Council of Seattle, Washington favoring the passage of H.R. 7, the "Brady Bill"; to the Committee on the Judiciary.

POM–101. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Rules and Administration.

"SENATE JOINT MEMORIAL 91–3.

"Whereas legislation has been introduced in Congress which would strengthen the "Federal Election Campaign Act of 1971"; and

"Whereas such strengthening of federal campaign laws would enhance citizens' confidence in our representative government; and

"Whereas specific reforms are necessary to curb excessive special interest influence on elections, to reduce campaign costs, and to halt contributions and expenditures by multicandidate political committees controlled by foreign-owned corporations; and

"Whereas franking privileges of incumbents should be restricted to increase competition in Congressional elections; and

"Whereas reapportionment should produce the fairest and most competitive voting districts that are possible; and

"Whereas contributions which are solicited or received from prohibited sources or which are not subject to record-keeping, reporting, or disclosure requirements should be deemed unlawful; and

"Whereas contributions made through intermediaries or conduits should be prohibited or restricted, and such contributions should be properly disclosed and reported; and

"Whereas the Federal Election Commission should have the authority to pursue violations of election laws aggressively, thereby promoting better compliance with such laws; and

"Whereas the Federal Election Commission should act as a clearinghouse of political activities; and

"Whereas all available methods should be utilized to establish a political climate which is viewed by the electorate as fair, competitive, and responsive; Now, therefore, be it

"*Resolved by the Senate of the fifty-eight general assembly of the State of Colorado, the House of Representatives concurring herein:* That the Colorado general assembly hereby urges the Congress of the United States to adopt legislation strengthening the "Federal Election Campaign Act of 1971"; be it further

"*Resolved,* That copies of this memorial be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Colorado Congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 1204. An original bill to amend title 23, United States Code, and for other purposes (Rept. No. 102–71).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 1198. A bill to provide that the compensation paid to certain corporate officers shall be treated as a proper subject for action by security holders, to require certain disclosures regarding such compensation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WIRTH:

S. 1199. A bill to amend the Department of Energy Organization Act to require the Secretary of Energy to establish an Area Office in Grand Junction, Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself, Mr. GORE, and Mr. DOLE):

S. 1200. A bill to advance the national interest by promoting and encouraging the more rapid development and deployment of a nationwide, advanced, interactive, interoperable, broadband communications infrastructure on or before 2015 and by ensuring the greater availability of, access to, investment in, and use of emerging communications technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 1201. A bill to require the Secretary of Veterans Affairs to increase by 60 the number of nursing home beds operated and maintained at the Department of Veterans Affairs Medical Center Nursing Home Care Unit, Prescott, Arizona; to the Committee on Veterans Affairs.

By Mr. HELMS:

S. 1202. A bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion on gain from sale of principal residence to be taken before age 55 if the taxpayer or a family member suffers a catastrophic illness; to the Committee on Finance.

S. 1203. A bill to amend the Internal Revenue Code of 1986 to provide that the one-time exclusion from sale of a principal residence shall not be precluded because the taxpayer's spouse, before becoming married to the taxpayer, elected the exclusion; to the Committee on Finance.

By Mr. BURDICK from the Committee on Environment and Public Works:

S. 1204. An original bill to amend title 23, United States Code, and for other purposes; placed on the calendar.

By Mr. WELLSTONE:

S. 1205. A bill for the relief of Alicia Lasin Brummitt, and Bobby Lasin Brummitt; to the Committee on the Judiciary.

By Mr. PELL (by request):

S. 1206. A bill to amend the International Security and Development Cooperation Act of 1985 to authorize appropriations for fiscal years 1992 and 1993 for the United States Commission for the Preservation of America's Heritage Abroad for carrying out that Act; to the Committee on Foreign Relations.

By Mr. DANFORTH (for himself, Mr. JEFFORDS, Mr. SPECTER, Mr. RUDMAN, Mr. CHAFEE, Mr. COHEN, Mr. DURENBERGER, Mr. HATFIELD, and Mr. DOMENICI):

S. 1207. A bill to strengthen and improve Federal civil rights laws, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DANFORTH (for himself, Mr. JEFFORDS, Mr. SPECTER, Mr. RUDMAN, Mr. CHAFEE, Mr. COHEN, Mr. DURENBERGER, Mr. HATFIELD, and Mr. DOMENICI):

S. 1208. A bill to amend the Civil Rights Act of 1964 to clarify provisions regarding disparate impact actions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DANFORTH (for himself, Mr. JEFFORDS, Mr. SPECTER, Mr. RUDMAN, Mr. CHAFEE, Mr. COEHEN, Mr. DURENBERGER, Mr. HATFIELD, and Mr. DOMENICI):

S. 1209. A bill to provide for damages in cases of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL.

S. 1210. A bill to amend the Immigration and Nationality Act to provide for the deportation of aliens who are convicted of felony drunk driving; to the Committee on the Judiciary.

By Mr. GRAHAM:

S. 1211. A bill to amend title XIX of the Social Security Act to permit States the option of providing medical assistance to individuals with a family income not exceeding 300 percent of the income official poverty line with appropriate costsharing, and for other purposes; to the Committee on Finance.

S. 1212. A bill to amend title XVIII of the Social Security Act to provide coverage for certain preventive care items and services under part B and to provide a discount in premiums under such part for certain individuals certified as maintaining a healthy lifestyle; to the Committee on Finance.

S. 1213. A bill to amend title IX of the Public Health Service Act to require the Director of the Centers for Disease Control to acquire and evaluate data concerning preventative health and health promotion, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SPECTER:

S. 1214. A bill to direct the Secretary of Health and Human Services to treat physicians services furnished in Lancaster County, Pennsylvania, as services furnished in number II locality for purposes of determin-

ing the amount of payment for such services under part B of the Medicare program; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. NUNN, Mr. MCCAIN, Mr. INOUYE, Mr. COHCRAN, Mr. DECONCINI and Mr. CRAIG):

S. 1215. A bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for the collection and disclosure of adoption information, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORTON (for himself, Mr. KENNEDY, Mr. KOHL, Mr. DIXON, Mr. COHEN, Mr. GORE and Mr. D'AMATO):

S. 1216. A bill to provide for the deferral of enforced departure and the granting of lawful temporary resident status in the United States to certain classes of nonimmigrant aliens of the People's Republic of China; to the Committee on the Judiciary.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1217. A bill to establish a field office of the Federal Emergency Management Agency in the State of Hawaii; to the Committee on Governmental Affairs.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 1218. A bill to enhance the conservation of exotic wild birds; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 1219. A bill to enhance the conservation of exotic wild birds; to the Committee on Environment and Public Works.

By Mr. DECONCINI (for himself, Mr. GRASSLEY, Mr. PELL, Mr. STEVENS, Mr. WALLOP, Mr. LUGAR, Mr. PRESSLER, Mr. BRADLEY, Mr. CRAIG, Mr. D'AMATO, Mr. GLENN, Mr. SASSER, Mr. KERRY, Mr. SIMON, Mr. DIXON, Mr. KENNEDY, Mr. MITCHELL, Mr. COHEN, Mr. ROBB, Mr. MOYNIHAN, Mr. JEFFORDS, Mr. RIEGLE, Mr. LAUTENBERG, Mr. KOHL, Mr. BROWN, Mr. CHAFEE, Mr. METZENBAUM, Mr. ROCKEFELLER, Mr. CONRAD, Mr. COCHRAN, Mr. SARBANES, Mr. BRYAN, Mr. BIDEN, Mr. DODD, Ms. MIKULSKI, Mr. JOHNSTON, Mr. WARNER, Mr. THURMOND, Mr. NUNN, Mr. PACKWOOD, Mr. DOLE, Mr. HATCH, Mr. BREAUX, Mr. LIEBERMAN, Mr. ADAMS, Mr. MURKOWSKI, Mr. SPECTER, Mr. REID, Mr. HOLLINGS, Mr. SHELBY, Mr. DOMENICI, Mr. HATFIELD, Mr. GORE, and Mr. CRANSTON):

S.J. Res. 154. Joint resolution to designate August 1, 1991, as "Helsinki Human rights Day"; to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S.J. Res. 155. Joint resolution commemorating the 250th Anniversary of the arrival of Vitrus Bering in America; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HOLLINGS (for Mr. MITCHELL):

S. Res. 135. A resolution to amend paragraphs 2 and 3 of Rule XXV; considered and agreed to.

S. Res. 136. A resolution to make appointments to the Committee on Environment and Public Works, the Committee on Foreign Relations and the Committee on Small Business; considered and agreed to.

By Mr. HOLLINGS (for Mr. DOLE):

S. Res. 137. A resolution to make a minority party appointment to the Committee on Banking, Housing, and Urban Affairs; considered and agreed to.

By Mr. DECONCINI:

S. Con. Res. 45. A concurrent resolution to express the sense of the Congress that the President should consider certain factors in 1992 before recommending extension of the waiver authority under section 402(c) of the Trade Act of 1974 with respect to the Union of Soviet Socialist Republics; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN:

S. 1198. A bill to provide that the compensation paid to certain corporate officers shall be treated as a proper subject for action by security holders, to require certain disclosures regarding such compensation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CORPORATE PAY RESPONSIBILITY ACT

Mr. LEVIN. Mr. President, today I am introducing a bill to give stockholders a voice in the way executive pay is set by their corporations. It's hard to believe that in a country where the economic system is based on capitalism, that a law to achieve this is necessary. But it is.

Recent stories have carried alarming examples of executive pay out of control. Business Week says the pay numbers are "mind-numbing." Time magazine's headline for its article on executive pay reads: "CEO's: No Pain, Just Gain." The cover of Forbes magazine states in red letters that the current pay system "doesn't make sense."

I think most of us would agree with Forbes. Something is out of whack when the average pay for a CEO in our largest corporations is over 100 times the average pay of the average worker. To put that figure in perspective, J.P. Morgan, in his heydey, said no executive should make more than 20 times the pay of the average worker. While as recently as 10 years ago our pay ratios were close to that target, that is no longer the case. Other countries of the world are much closer to the mark. In Japan, for example, CEO's make about 17 times what average workers do; in Germany the figure is about 23 times. But here in America, our pay gap is now 100 times.

Mr. President, it is one thing to have spectacular pay for spectacular performance. It is another to have spectacular pay for dismal or even mediocre performance. Yet, we are witnessing huge pay for poor performance all over corporate America.

Let me give you just one example. A few weeks ago, the newspapers reported that although Eagle-Picher Industries filed for bankruptcy in January of this year, last year it gave its five top executives pay increases of more than 30 percent; 1990 was a tough year for business. But as corporate management was asking average American workers to tighten their belts, in too many corporate boardrooms, they were buying themselves whole new wardrobes—without the stockholders having any say in the matter.

Mr. President, the facts are that CEO pay in America vastly exceeds CEO pay in other countries; that increases in CEO pay in America vastly exceed the increases in the pay of our other workers; and that CEO pay in America has continued to rise in the face of falling company profits. These three charts lay out the story.

In the first chart, we see that pay for American's chief executive officers far exceeds that of CEO's in any other country. Looking at companies with $250 million or more in assets, our CEO pay exceeds that of Australia and Sweden by almost three times, and it is more than double that of Japan.

In the second chart, we can see that in the 1980's, the pay increases for our CEO's shot way above the pay increases for other workers. In the 1960's and 1970's, the pay of our schoolteachers, engineers, factory workers, and corporate CEO's was increasing at about the same rate. Then the 1980's came along, and CEO pay abruptly, rapidly, and disproportionately shot upward.

As far as I know, in the history of our country, there has never been such a wide pay gap between our CEO's and average workers.

The third chart shows that the dramatic pay increases and widening pay gap of the 1980's were not linked to increased profitability at American companies. Just the opposite: Executive pay rose at the same time corporate profits stagnated or dropped. The chart shows that the 1980's saw CEO pay shoot up past the inflation rate, while the hourly wages of other employees did not even keep up with inflation, and company profits dropped well below inflation. And the trend appears to be continuing: in 1990, we are told that CEO pay rose another 7 percent while corporate profits fell by the same amount.

In short, CEO pay increases are outpacing inflation, the pay of other American workers, the pay of CEO's in other countries, and company profits in America. More than one compensation expert has characterized CEO pay as spiraling out of control.

A similar story applies to the people in the boardrooms who are charged with setting the CEO's pay. Those people, the directors of the corporation, have also seen their pay skyrocket, to an average of $45,000 for the equivalent of about 2½ weeks of work. Some receive as much as $94,000. And that cash payment is on top of such benefits as

insurance, travel expenses, and pensions. The fact is that, in boardrooms of the largest corporations across America, the directors and the CEO's are getting rich together, even when their companies are losing money.

The cozy relationship that exists today between U.S. CEO's and directors was described by one of the witnesses at a hearing held a few weeks ago by the Governmental Affairs Oversight Subcommittee, which I chair. That witness said:

[T]he board members are dependent upon and thus beholden to just one person, the CEO, for their positions, pay and perks. So it doesn't surprise me a bit that there is not a lot of argument when it comes to the day where the board approves the CEO's pay. It is a you-scratch-my-back, I'll-scratch-yours system of corporate governance. Under the system, the executives are doing exactly what we would expect. They are increasing their pay year after year regardless of performance.

Now here comes a really interesting part—the Federal Government is actually hindering stockholder efforts to put the brakes on runaway executive pay.

The key Federal barrier is a ruling by the Securities and Exchange Commission which allows corporations to ignore stockholder proposals on pay and prevent those proposals from being put to a shareholder vote.

The relevant SEC regulation is called the Shareholder Proposal Rule. In essence, this rule states that any shareholder who has held $1,000 worth of stock for at least a year is eligible to submit a shareholder proposal to a corporation. The corporation then has to circulate the proposal in its proxy statement and put it to a shareholder vote, unless the proposal falls into one of the SEC's exceptions. The problem is that the SEC considers proposals on pay to be an exception. So corporations, with the knowledge and consent of the SEC, can simply ignore stockholder proposals on executive and director compensation.

The end result is this: If a stockholder who otherwise meets SEC requirements for circulating a proposal, wants to address executive pay, the SEC will back up any corporation's refusal to put that proposal to a shareholder vote.

That's what happened to all 15 shareholder proposals on pay which were presented to the SEC in 1990 for consideration. In all 15 cases in which publicly held corporations asked the SEC whether they had to circulate a shareholder proposal on compensation for a vote at the annual meeting, the SEC said "No."

This SEC practice is the largest stumbling block in the way of shareholders who want to do something about runaway executive pay.

Another key SEC regulation controls the disclosure of compensation information. Despite SEC efforts to require clear disclosure, all too often, even knowledgeable investors are at a loss to figure out complex pay packages spread over multiple pages in annual proxy statements. Nowhere is there just one table that adds it all up and gives the bottom line in pay for each executive and director. Nor is there any easy way to compare current pay to past years or to project the future costs of the very intricate pay packages that are common today.

Finally, there are no Federal provisions allowing shareholders to nominate directors and include them in the corporation's proxy statement and ballot. As a witness at the subcommittee hearing testified:

We know the theory of the corporation. The shareholder elects the board to represent their interests, and then the board's job is to choose the management and set the compensation package. But, in reality, this theory is turned completely upside down, because the way the process works, the management appoints the board. * * * And whether the shareholders vote for the management's slate, against the slate, or whether they vote at all, they get the management slate. There is no competition for board seats. Worse yet, there is no mechanism for the shareholder to nominate an alternative board member.

As long as shareholders are barred from the nomination process, too many directors will have only a weak sense of loyalty and accountability to stockholders. And directors simply will not have the incentive to confront the CEO or each other about their runaway pay.

The subcommittee hearing I've referred to took place on May 15 and focused on the SEC and the issue of runaway executive pay. The shareholder groups who testified let us know loud and clear that they are angry about excessive pay and angry about SEC practices which block shareholder attempts to do something about it. One witness testified that skyrocketing CEO pay, unrelated to corporate performance, is the "smoking gun that proves the lack of meaningful accountability of managements of large American corporations today."

The witnesses also testified that these practices threaten American competitiveness. They explained that executives who receive huge pay increases when the company is doing poorly not only lose their incentive to improve corporate performance, but also damage the morale of workers far down the pay scale and damage investor interest in buying American stock.

That is why I am introducing today the Corporate Pay Responsibility Act. Congressman JOHN BRYANT is introducing the same bill in the House of Representatives. The purpose of our legislation is to get the Federal Government out of the way of stockholders who want to hold their corporations accountable for runaway pay.

The bill would reduce the Federal barriers to effective stockholder action on excessive executive pay. First, it would allow stockholders to vote on proposals addressing how a corporation should set executive and director pay.

Second, it would require corporations to provide clearer and simpler disclosure of executive and director pay packages.

Third, the bill would allow stockholders with not less than $1 million or 3 percent of a corporation's stock to nominate directors and include their nominees in the proxy statement and ballot.

Finally, the bill would provide for confidential voting of proxies and require the SEC to support stockholder access to a corporation's stockholders when this access is otherwise authorized by law.

Mr. President, the owners of the corporations—the stockholders—ought to have the right to question executive pay which is excessive when they go to their annual stockholder meetings. They ought to have the right to propose changes in their corporation's compensation policies, criteria and methods for setting CEO and director pay. After all, it is their money.

By increasing stockholder participation in compensation policies and practices, the Corporate Pay Responsibility Act could provide some "CPR" to revive American competitiveness. I hope that my colleagues will join me in removing the Federal Government's stumbling blocks to stockholders who want to increase corporate performance and stop runaway executive pay.

I ask unanimous consent that a summary of the bill's provisions and the text of the bill itself be printed in the RECORD immediately after my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corporate Pay Responsibility Act".

SEC. 2. CORPORATE OFFICER COMPENSATION.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) CORPORATE OFFICER COMPENSATION.—

"(1) SECURITY HOLDER PROPOSALS.—For purposes of this Act and the rules and regulations issued by the Commission under this Act, recommendations, proposals, or statements on the policies, criteria, or methods to be used in determining or providing the compensation to be paid to the directors or the chief executive officer of an issuer shall be considered proper subjects for action by its security holders. If such recommendations, proposals, or statements otherwise meet the requirements of this section and the rules and regulations of the Commission, an issuer may not omit such recommendations or proposals or any statement in support thereof otherwise required by this section from its proxy statement.

"(2) DISCLOSURE INFORMATION.—Pursuant to the rules and regulations of the Commission, an issuer shall include in its proxy statement, clear and comprehensive information concerning the compensation paid to each director and senior executive, including—

"(A) a single dollar figure representing the total compensation paid to such person, including deferred, future, or contingent compensation, by the issuer during the year to which such proxy statement pertains;

"(B) the estimated present value, represented by a dollar figure, of any forms of deferred, future, or contingent compensation provided during such year; and

"(C) a graphic representation of—

"(i) the compensation referred to in subparagraph (A);

"(ii) comparable figures for the total compensation paid to such person by the issuer during each of the 2 years prior to the year to which such proxy statement pertains; and

"(iii) comparable figures for the estimated total compensation to be paid to such person by the issuer in each of the succeeding 5 years.

"(3) PRESENT VALUE CALCULATIONS.—For purposes of paragraph (2) of this subsection, the Commission shall—

"(A) specify the method for estimating the present value of stock options and other forms of deferred, future, or contingent compensation paid to the directors or senior executives of an issuer; and

"(B) require the issuer to reduce its earnings, as reflected in its earnings statements to its security holders, by the estimated present value of such compensation.".

SEC. 3. SHAREHOLDER NOMINATIONS.

(a) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsections:

"(i) CORPORATE OFFICER NOMINATIONS BY SECURITY HOLDERS.—

"(1) SECURITY HOLDER NOMINEES.—Subject to the rules and regulations of the Commission, a person or group that is the beneficial owner of voting equity securities representing—

"(A) not less than 3 percent of the voting power of such issuer's securities, or

"(B) not less than $1,000,000 in market value,

may nominate persons for election to the board of directors of the issuer.

"(2) INCLUSION IN PROXY STATEMENT.—Subject to the rules and regulations of the Commission, such nominations shall be included in the issuer's proxy statement and form of proxy, and the person or group making such nominations may provide descriptions or other statements with respect to such nominations to the same extent as the board of directors or management of such issuer, and to the same extent as provided with respect to other nominations.

"(j) AVAILABILITY OF SECURITY HOLDER LIST.—Upon receipt of a written request, an issuer shall promptly deliver its list of security holders of record and any list of beneficial owners used by or available to it to any person entitled to obtain such list under applicable laws. An issuer that fails to promptly provide the list required by this subsection shall be subject to a monetary penalty imposed by the Commission, pursuant to rules or regulations established by the Commission.

"(k) CONFIDENTIALITY.—The Commission shall, by rule or regulation—

"(1) require that the granting and voting of proxies, consents, and authorizations, be confidential; and

"(2) require the tabulation of votes to be performed by an independent third party, certified in accordance with such rules and regulations; and

"(3) provide for the announcement of the results of a vote following such tabulation.

Nothing in this subsection shall be construed to authorize any person to withhold information from the Commission or from any other duly authorized agency of the Federal Government or a State government that is otherwise required by law.".

(a) IN GENERAL.—The amendments made by this Act shall become effective 1 year after the date of enactment of this Act.

(b) COMMISSION ACTION.—The Commission shall promulgate final rules and regulations necessary to carry out this Act not later than 1 year after the effective date of this Act.

SUMMARY OF CORPORATE PAY RESPONSIBILITY ACT

The Corporate Pay Responsibility Act would remove federal barriers to stockholder efforts to limit executive and director pay in publicly-held corporations, by amending the Securities Exchange Act of 1934 to:

(1) allow stockholders, for the first time, to obtain a stockholder vote on proposals recommending changes in corporate policies, criteria and methods used to determine and provide compensation to the CEO and directors;

(2) require clearer and simpler disclosure of executive and director compensation packages, including a bottom-line dollar figure on the total compensation paid to each individual, and a table comparing this compensation to the 2 previous years and projecting its costs for the 5 succeeding years;

(3) require the Securities and Exchange Commission (SEC), for the first time, to specify a method for calculating the present value of stock options and other deferred or contingent compensation and require this compensation cost to be reflected in corporations' earnings statements;

(4) allow stockholders with not less than 3% or $1 million of the corporation's voting equity shares to nominate directors and include their nominees in the corporation's proxy statement and ballot;

(5) require the SEC to support shareholder access to a corporation's stockholder list, when this access is otherwise authorized by law; and

(6) provide for confidential voting of proxies and tabulation of vote results by an independent third party.

By Mr. WIRTH:

S. 1199. A bill to amend the Department of Energy Organization Act to require the Secretary of Energy to establish an Area Office in Grand Junction, CO, and for other purposes; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY GRAND JUNCTION AREA OFFICE ESTABLISHMENT ACT

Mr. WIRTH. Mr. President, today I am introducing legislation that will strengthen the Department of Energy's [DOE] environmental cleanup program by making the DOE's highly successful Grand Junction Project Office an independent area office under the direct supervision of the DOE's Office of Environmental Restoration and Waste Management.

The DOE considers the Grand Junction Project Office [GJPO] to be a very important part of the department's environmental restoration infrastructure. In the last decade, the Grand Junction Project Office has emerged as one of the DOE's most efficient and resourceful operations.

Chem-Nuclear Geotech, the contractor at the Grand Junction Project Office has successfully managed more than a dozen environmental restoration, geoscience and energy-related projects for the DOE—including the complex remediation and removal of uranium mill tailings wastes from more than 3,900 properties in Mesa County, CO.

The Grand Junction Project Office currently manages programs in 21 States and Korea. Over the years, this office has developed expertise and technical skills that make it one of the DOE's crown jewels. The Environmental Protection Agency [EPA] has indicated that the Grand Junction Project Office was a key component in the cleanup of the Denver Radium Superfund Site—a site which captured the National Superfund Team of the Year Award in 1990.

In short, the Grand Junction Project Office has been entrusted with some of the Federal Government's most difficult and complex environmental problems—and has, by all accounts, performed excellent work for the DOE and the Nation's taxpayers.

The current administrative framework of the DOE has, however, hindered efforts to fully utilize the skills and engineering resources of the Grand Junction Project Office. An out-dated and cumbersome bureaucracy has kept the GJPO reporting to the DOE's Idaho Operations Office, instead of reporting directly to the Office of Environmental Restoration and Waste Management. This arrangement has resulted in the waste of time and resources in an otherwise effective and efficient operation.

The long and short of it, Mr. President, is that the Grand Junction Project Office has outgrown its administrative beginnings. New times and new environmental challenges have encouraged the DOE and other Federal agencies like the EPA and the Department of Defense to use the expertise and engineering resources of the Grand Junction Project Office in managing or supporting complicated environmental cleanups around the country.

Facilities at the project office represent a $50 million Federal investment, including state-of-the-art laboratories and engineering equipment. However, the most important resource is the human one. In the last 20 years this office has nurtured and developed a highly trained and skilled pool of people possessing important talents that should be fully utilized in tackling

the myriad of environmental pollution and contamination problems facing the DOE and the Federal Government. It would be a shame to waste these resources in a bureaucratic dispute about administrative hierarchy.

Unfortunately, after more than 2 years of discussions, reams of interdepartmental memoranda, and scores of debates about the future of this facility, it is still underutilized and the department has yet to come forward with a long-range plan for new missions.

I am convinced that the most efficient and least costly way of fully utilizing these important Federal resources is to cut through the jungle of conflicting administrative authority and make this office a DOE area office directly answerable to the DOE's Office of Environmental Restoration and Waste Management. In this way, the Department of Energy will be authorized to use the Grand Junction Project Office as it sees fit—and with a streamlined command structure which will save taxpayer dollars.

Legislation I am proposing today is a step toward cutting out bureaucracy, fully utilizing resources that American taxpayers have already paid for, and getting on with the important—and indeed monumental task—of cleaning up polluted and contaminated sites owned by the Federal Government.

Mr. President, I send the bill to the desk and ask for its appropriate referral.

By Mr. DECONCINI:

S. 1201. A bill to require the Secretary of Veterans Affairs to increase by 60 the number of nursing home beds operated and maintained at the Department of Veterans Affairs Medical Center Nursing Home Care Unit, Prescott, AZ; to the Committee on Veterans' Affairs.

PRESCOTT NURSING HOME CARE UNIT

Mr. DECONCINI. Mr. President, I rise today to introduce a bill to direct the Secretary of the Department of Veterans Affairs to expand the nursing home care unit [NHCU] in Prescott, AZ to 120 beds. This legislation is required to provide adequate and important services to our veterans residing in Yavapai County, AZ. I hope to assure its passage in the 102d Congress.

We have recently been reminded of the great and important service our Armed Forces render to our country. During the Persian Gulf war, our service men and women demonstrated once again their commitment and dedication in serving our country. Now, it is our duty to show that same commitment and dedication to ensure that quality medical care is available to all veterans of the Armed Forces.

Veterans in the northern Arizona counties of Yavapai, Mohave, and Coconino, are not receiving the full support of the VA medical care system which they have earned and deserve. At present, there are only 60 beds available at the Prescott VA NHCU. This 60-bed facility opened in January 1990. Within a week, every bed was filled. Today, almost as many veterans requiring nursing care are on a waiting list for the new facility as those presently receiving care. Countless more northern Arizona veterans in need of nursing care don't even bother to put their names on the waiting list.

While the waiting list grows, the number of older veterans in the primary service area who will require nursing care continues to increase dramatically. Projections show that by 1995, 45,266 veterans will be treated by the Prescott VA Medical Center, 19,176 of whom will be 65 years old or older. Several hundred of these older veterans will require VA nursing care. The existing 60 nursing home beds cannot possibly accommodate the future nursing care needs of northern Arizona's elderly veteran population.

Planning for the VA nursing home facility in Prescott first began in 1975. After several concept changes, the decision was made to go forward with a 120-bed project based upon a lack of community nursing home beds. Projections at that time showed a continued shortage of beds both locally and elsewhere within the Medical Center's Primary Service Area [PSA]. In 1984, the VA included the 120-bed Prescott NHCU in the 1984 VA 5-year facility plan, fiscal years 1986–90. However, a 1984 GAO study reviewing the 5-year plan suggested a 120-bed facility was not necessary given the projected availability of community nursing home beds. A later construction project contract audit by the VA inspector in 1986 supported the GAO's conclusion. But they were wrong as I predicted.

Contrary to the assumptions made by both audit reports, the community nursing care beds cannot reasonably accommodate the current veteran population. The mere fact that the new 60-bed facility was filled in the first week is the best evidence that the assumptions made by GAO and the VA Inspector General were erroneous.

This legislation will not only improve nursing care services for veterans living in the Prescott primary serving area, but will also help veterans statewide. It will free up beds in the Phoenix and Tucson VA Medical Centers Nursing Home Care Units now occupied by northern Arizona veterans. The expansion would also reduce the number of veterans forced to relocate to Tucson and Phoenix in order to receive care. The Prescott expansion is needed today more than ever since the nearest nursing care facility, located over 2 hours away at the Phoenix VA Medical Center, is facing an extreme funding shortfall. Given a $2.5 million-plus medical care center shortfall, the Phoenix director had no other option but to shut down half of his nursing home care unit, leaving open only 60 of its 120 beds.

Mr. President, our veterans must be able to trust the VA to provide nursing care when it is required. Expansion of the NHCU at the Prescott VA Medical Center is vital to maintaining that trust. The need is there. We must respond now and fulfill the Nation's promise to its veterans.

I urge my colleagues to approve this bill, so that elderly veterans in northern Arizona will no longer have to wait for the nursing care they need and deserve from this country.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN NUMBER OF OPERATIONAL BEDS AT THE DEPARTMENT OF VETERANS AFFAIRS NURSING HOME CARE FACILITY, PRESCOTT, ARIZONA.

(1) MINIMUM NUMBER OF BEDS.—The Secretary of Veterans Affairs shall operate and maintain not less than 120 nursing home beds at the Prescott Department of Veterans Affairs Medical Center Nursing Home Care Unit, located in Prescott, Arizona.

(b) RELATIONSHIP TO MAXIMUM NUMBER OF BEDS.—The requirement in subsection (a) does not authorize an increase in the maximum number of beds authorized to be operated and maintained under section 8110(a)(1) of title 38, United States Code.

By Mr. HELMS:

S. 1202. A bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion of gain from sale of a principal residence to be taken before age 55 when the taxpayer or a family member suffers a catastrophic illness; to the Committee on Finance.

S. 1203. A bill to amend the Internal Revenue Code of 1986 to provide that the one-time exclusion of gain from sale of a principal residence shall not be precluded because the taxpayer's spouse, before becoming married to the taxpayer, elected the exclusion; to the Committee on Finance.

MODIFICATION OF CAPITAL GAINS TAX EXCLUSION PROVISIONS

• Mr. HELMS. Mr. President, today I am introducing two bills to modify the one-time capital gains tax exclusion that is currently allowed for taxpayers over the age of 55 when they sell a home.

The first bill (S. 1202) would allow a taxpayer to claim the one-time capital gains exclusion before the age of 55 in the event that the taxpayer or a member of the taxpayer's family suffers a catastrophic illness.

The second bill (S. 1203) would allow a taxpayer to claim the exclusion on a sale even though his spouse may have

already claimed such a deduction before they were married.

Mr. President, section 121 of the Internal Revenue Code allows an individual over the age of 55 to exclude from taxable income up to $125,000 of capital gains from the sale of a residence. This exclusion may be claimed only once by the taxpayer or his spouse.

S. 1202 is identical to legislation offered in the 101st Congress by our former colleague, Bill Armstrong. It would allow an individual who faces a catastrophic illness in his or her family to take advantage of the one-time capital gains exclusion prior to the age of 55. Under this bill, a taxpayer of any age would be able to exclude from taxable income up to $125,000 capital gains if a parent, spouse, or child of the taxpayer is physically or mentally incapable of self-care and that condition has lasted, or is expected to last, for at least 6 months. Once a taxpayer elects to exercise this exclusion, it would not be available again to that taxpayer.

Mr. President, more and more families face the exorbitant and unexpected cost associated with the onset of a catastrophic illness. Because of the high cost of long-term care, many taxpayers facing these costs are forced to sell their homes to pay medical bills. Unfortunately, the Federal Government imposes a capital gains tax on the profits the taxpayer may realize.

This legislation provides one small way Congress can help families deal with the costs of long-term care without creating another massive and costly new Federal program and without forcing private businesses to carry the burden.

Mr. President, my second bill (S. 1203) would remedy an unintended marriage penalty that exists in section 121. This problem was brought to my attention by Mr. Alan McKease, a 70-year-old constituent from Hendersonville, NC. Mr. McKease's wife suffered from cancer. When she died in 1989, neither she nor Mr. McKease had used the one-time capital gains exclusion that was available to them. They had planned to use the exclusion later to help pay for the cost of a good retirement home.

A couple of years after his wife's death, Mr. McKease married a 70-year-old widow. When he sold his home, he was shocked to learn that he couldn't exercise his one-time capital gains exclusion because his new wife and her late husband had already used the exclusion when they sold a previous residence.

Mr. President, there were ways that Mr. McKease could have avoided this problem. He could have sold his home before he remarried and found a new home, whether or not he was ready to do so. Or, if he and his wife wished to keep his home for the time being, they could have lived together without getting married. In that way, Mr. McKease could have retained his exclusion until he and his second wife decided to sell the home. That is why I referred to this section as containing a marriage penalty.

Mr. President, it should not be necessary for taxpayers to play such games to qualify within the provisions of our income tax laws. That is why I am proposing that we amend section 121 so that taxpayers who find themselves in a situation like that of Mr. McKease will be able to exercise the one-time capital gains exclusion even if their spouse has exercised the exclusion before they were married.●

By Mr. BURDICK, from the Committee on Environment and Public Works:

S. 1204. An original bill to amend title 23, United States Code, and for other purposes; placed on the calendar.

SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. BURDICK. Mr. President, upon the occasion of filing the Surface Transportation Efficiency Act of 1991, and the report accompanying the bill, I make note of the fact that the following Senators have indicated their strong support for the bill:

Senators MOYNIHAN, CHAFEE, SYMMS, LAUTENBERG, LIEBERMAN, BAUCUS, REID, JEFFORDS, CRANSTON, and D'AMATO.

I ask unanimous consent that the Surface Transportation Efficiency Act of 1991, an original bill reported by the Environment and Public Works Committee, be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Efficiency Act of 1991".

SEC. 2. TABLE OF CONTENTS.

SEC. 3. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I

PART A—GENERAL PROVISIONS

SEC. 102. DECLARATION OF POLICY.

(a) Subsection 101(b) of title 23, United States Code, is amended to read as follows:

"(b) DECLARATION OF POLICY.—The National Systems of Interstate and Defense Highways is completed. The principal purpose of Federal highway assistance shall henceforth be to improve the efficiency of the existing surface transportation system.

"It is the policy of the United States to facilitate innovation and competition, energy efficiency, productivity and accountability in transportation modes through Federal and State initiative.

"It is the policy of the United State to increase productivity in the transportation sector of the economy through systematic attention to costs and benefits, pursuing the most efficient allocation of costs and the widest distribution of benefits.".

(b) Subsections 101(d) and 101(e) of title 23, United States Code, are hereby repealed.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) REPEAL OF FISCAL YEAR 1993 AUTHORIZATION FOR INTERSTATE CONSTRUCTION.—Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by—

(1) inserting "and" after "1991";

(2) striking the coma after 1992" and inserting in lieu thereof a period; and

(3) striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993".

(b) AUTHORIZATIONS.—The following sums are authorized to be appropriated out of the Highway Account of the Highway Trust Fund:

(1) SURFACE TRANSPORTATION PROGRAM.—For the Surface Transportation Program $7,330,000,000 for fiscal year 1992, $7,700,000,000 for fiscal year 1993, $8,260,000,000 for fiscal year 1994, $9,250,000,000 for fiscal year 1995, and $12,260,000,000 for fiscal year 1996.

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For Congestion Mitigation and Air Quality Improvement $1,000,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995 and 1996.

(3) BRIDGE PROGRAM.—For the Bridge Program $2,370,000,000 for fiscal year 1992, $2,460,000,000 for fiscal year 1993, $2,600,000,000 for fiscal year 1994, $2,840,000,000 for fiscal year 1995, and $3,050,000,000 for fiscal year 1996.

(4) INTERSTATE MAINTENANCE PROGRAM.—For resurfacing, restoring and rehabilitating the National System of Interstate and Defense Highways, $2,530,000,000 for fiscal year 1992, $2,620,000,000 for fiscal year 1993, $2,770,000,000 for fiscal year 1994, $3,020,000,000 for fiscal year 1995, and $3,250,000,000 for fiscal year 1996.

(5) INTERSTATE CONSTRUCTION PROGRAM.—For construction to complete the Interstate System, $1,800,000,000 for fiscal year 1993, 1994, 1995, and 1996: *Provided*, that section 102(c) of the Federal-Aid Highway Act of 1987, regarding minimum apportionment, is hereby repealed, and: *Provided further*, that such sums shall be obligated as if authorized by section 108(b) of the Federal-aid Highway Act of 1956.

(6) INTERSTATE SUBSTITUTION PROGRAM.—For the Interstate Substitution Program for projects under highway or transit assistance programs $240,000,000 for each of fiscal years 1992, 1993, 1994 and 1995: *Provided*, that such sum shall be obligated as if authorized by 23 U.S.C. 103(e)(4)(G) for highway assistance programs.

(7) FEDERAL LANDS HIGHWAY PROGRAM.—

(A) For Indian reservation roads $150,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996.

(B) For public lands highways $200,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

(C) For parkways and park highways $100,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

(8) TERRITORIAL HIGHWAY PROGRAM.—For the Territorial Highway Program $15,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(9) NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.—For the National Magnetic Levitation Design Program $50,000,000 for fiscal year 1992, $75,000,000 for fiscal year 1993, $125,000,000 for fiscal year 1994, $250,000,000 for fiscal year 1995, and $250,000,000 for fiscal year 1996.

(10) FEDERAL HIGHWAY ADMINISTRATION RESEARCH PROGRAMS.—For the purpose of carrying out research as authorized by Section 307, the amount of $120,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996: *Provided*, that such amount shall be made available from within the amount of the deduction authorized pursuant to section 104(a) of title 23, United States Code.

(11) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—For carrying out the University Transportation Centers Program pursuant to the Urban Mass Transportation Act of 1964, as amended, $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(12) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects $2,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996: *Provided*, that these sums shall be available until expended and may be allocated to the Internal Revenue Service or the States at the discretion of the Secretary, and: *Provided further*, that these funds shall be used to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff, supplement motor fuel tax examination and criminal investigation, develop automated data processing tools, evaluate and implement registration and reporting requirements, reimburse state expenses that supplement existing fuel tax compliance efforts and analyze and implement programs to reduce the tax evasion associated with other highway use taxes.

(13) SAFETY BELT AND MOTORCYCLE HELMET USE.—For the purpose of carrying out programs under section 153 of title 23, United States Code, $45,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

SEC. 104. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highway programs shall not exceed—

(1) $15,480,000,000 for fiscal year 1992;
(2) $15,940,000,000 for fiscal year 1993;
(3) $16,840,000,000 for fiscal year 1994;
(4) $18,410,000,000 for fiscal year 1995; and
(5) $20,190,000,000 for fiscal year 1996;

Provided, that limitations under this section shall not apply to obligations for emergency relief pursuant to section 135 and obligations for minimum allocation pursuant to section 157.

(b) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 1992, 1993, 1994, 1995 and 1996, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year.

(c) LIMITATION ON OBLIGATION AUTHORITY.—During the period October 1 through December 31 of each fiscal year 1992, 1993, 1994, 1995, and 1996 no State shall obligate more than 35 per centum of the amount distributed to that State under subsection (b) for that fiscal year, and the total of all State obligations during the period shall not exceed 25 per centum of the total amount distributed to all States under subsection (b) for that fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent unintended lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a state:

(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995 and 1996, revise a distribution of funds made available under subsection (b) for that fiscal year if a State will not obligate the amount distributed to it during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during the fiscal year, first in accordance with paragraph (4) of this subsection and, to the extent further obligation authority is available after distribution of the maximum permitted under paragraph (4), then by distributing the remainder giving priority to those States having large unobligated balances of funds apportioned under section 104 and section 144 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highways program, and the National Magnetic Levitation Design Program.

(4)(A) Subject to subparagraph (B), a State which after August 1 and on or before September 30 of fiscal years 1992, 1993, 1994, 1995 or 1996, obligates the amount distributed to such State in such fiscal year under subsection (b) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 per centum of the aggregate amount of funds apportioned or allocated to such State—

(i) under sections 104 and 144; and

(ii) for highway assistance projects under section 103(e)(4), which are not obligated on the date such State completes obligation of the amount so distributed.

(B) LIMITATION.—During the period August 2 through September 30 of each of fiscal years 1992 through 1996, the aggregate amount which may be obligated by all States pursuant to subparagraph (A) shall not exceed 2.5 per centum of the aggregate amount of funds apportioned or allocated to all States—

(i) under sections 104 and 144, and

(ii) for highway assistance projects under section 103(e)(4), which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

(C) LIMITATION ON APPLICABILITY.—

(i) Subparagraph (A) shall not apply in a fiscal year to any State which on or after August 1 of that fiscal year has the amount distributed to such State under subsection (b) for such fiscal year reduced under paragraph (d)(2).

(ii) This paragraph does not create obligation authority in addition to that provided by subsection (a), but concerns only redistribution of obligation authority.

SEC. 105. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned for the primary, secondary and urban systems and the railway-highway crossing and hazard elimination programs may be obligated for the Surface Transportation Program as if they had been apportioned for that Program.

SEC. 106. SURFACE TRANSPORTATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title 23, United States Code, is amended by adding the following new section:

"SEC. 133. SURFACE TRANSPORTATION PROGRAM.—The Secretary shall establish a Surface Transportation Program in accordance with this section.

"(a) ELIGIBILITY.—Projects eligible under the Surface Transportation program shall include—

"(1) construction, reconstruction, rehabilitation, resurfacing, restoration, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and in-

cluding the seismic retrofit and painting of bridges and other elevated structures;

"(2) capital costs for mass transit, passenger rail (including high speed rail), publicly owned intra—or inter city bus terminals and facilities, and magnetic levitation systems, including expenditures on rights of way and associated facilities, and expenses for contracted passenger rail or magnetic levitation service provided by public or private carriers;

"(3) carpool projects and fringe and corridor parking facilities and programs, and bicycle facilities and programs;

"(4) surface transportation safety improvements and programs, including highway safety improvement projects, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings;

"(5) surface transportation research and development programs;

"(6) capital and operating costs for traffic monitoring, management and control facilities and programs;

"(7) surface transportation planning programs;

"(8) transportation enhancement activities as defined in section 101;

"(9) transportation control measures listed in section 108(f) of the Clean Air Act, as amended; and

"(10) any other purpose approved by the Secretary.

Provided, that projects other than those described in paragraphs (3) and (4) may not be undertaken on roads functionally classified as local or rural minor collector, unless such roads are on a Federal-aid highway system as of January 1, 1991, except as approved by the Secretary. Surface Transportation Program funds may be used either as part of a highway construction project or as a separate effort to mitigate wetland loss related to highway construction, or to contribute to statewide efforts which comply with the requirements of the Secretary of the Army and the Administrator of the Environmental Protection Agency that restore, conserve, or enhance wetland habitat affected by highway construction. These efforts may include the development of statewide wetland mitigation plans, State or regional conservation and enhancement of wetlands, and other related efforts. Contributions toward these efforts may occur in advance of specific project activity.

"(b) GENERAL REQUIREMENTS.—

"(1)(A) At least 75 per centum of apportionments and obligation authority made available to a State for the Surface Transportation Program in any year shall be divided between—

(i) the metropolitan areas of the State with a metropolitan statistical area population of over 250,000 and areas of the State that are in nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act as amended and have an urbanized area population above 50,000; and

(ii) the other areas of the State;

in proportion to their relative share of the State's population. The remaining 25 per centum of funds may be programmed in any area of the State.

"(B) Notwithstanding the requirements of subparagraph (A), in any State where—

(i) greater than 80 per centum of the population of such State is located in one or more metropolitan statistical areas and greater than 80 per centum of the land area of such State is owned by the United States; or

(ii) such State is non-contiguous with the continental United States;

only 35 per centum of Surface Transportation Program funds shall be divided based on the formula provided in subparagraph (A). The remaining 65 per centum of funds may be programmed in any area of the State.

"(2) Programming and expenditure of funds for projects in metropolitan areas shall be consistent with the requirements of section 134, regarding metropolitan planning.

"(3) Programming and expenditure of funds for projects in non-metropolitan areas shall be consistent with the provisions of section 135, regarding statewide planning.

"(4) Of the apportionments made available to a State under this section, each State must assure that no less than 8 per centum of such funds are programmed for transportation enhancement activities, as defined in section 101.

"(5) In the case where a State constructs a facility under this program with a Federal share of 80 per centum and later converts the facility to operation such that the project would originally have been undertaken with a Federal share of 75 per centum, the State shall repay to the United States, with interest, the amount of the difference in the cost to the United States.

"(6) Each State shall assure that funds attributed to metropolitan and nonattainment areas pursuant to paragraph (1) shall be divided among such areas in a fair and equitable manner based on the relative population of such areas, except that the State may divide funds based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

"(7) Each State shall assure that funds attributed to attainment and non-metropolitan areas pursuant to paragraph (1) shall be distributed fairly and equitably among those areas.

"(c) ADMINISTRATION.—

(1) If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State, that, if it fails to take corrective action within 60 days from the receipt of the notification, the Secretary will withhold future payments under this section until the Secretary is satisfied that appropriate corrective action has been taken.

"(2) The Governor of each State shall certify prior to the beginning of each fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for Surface Transportation Program projects during the fiscal year: *Provided*, that the State may request adjustment to the obligation amounts later in the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the Surface Transportation Program funds expected to be obligated by the State in that fiscal year for projects not subject to review by the Secretary.

"(3) Projects must be designed, constructed, operated and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

"(4) Any State may request that the Secretary no longer review and approve design and construction standards for any project other than a project on an Interstate highway or other multi-lane limited access control highways, except as provided in section 102(b), regarding resurfacing projects. After receiving any such notification the Secretary shall undertake project review as requested by the State.

"(5) The Secretary shall make payments to a State of costs incurred by it for the Surface Transportation Program. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended by—

(1) amending paragraph (1) to read as follows:

"(1) SURFACE TRANSPORTATION PROGRAM.—For the Surface Transportation Program, in a manner such that—

(A) a State's per centum share of all funds allocated or apportioned pursuant to this title for fiscal year 1992 and any fiscal year thereafter, excluding funds apportioned or allocated for the Interstate Construction, Interstate Substitute, Federal Lands Highways, Congestion Mitigation and Air Quality Improvement, Minimum Allocation, National Magnetic Levitation Design, and Emergency Relief programs;

shall be equal to—

(B) such State's per centum share of all apportionments and allocations received under this title for fiscal years 1987, 1988, 1989, 1990 and 1991, excluding apportionments and allocations received for the Interstate Construction, Interstate Substitute, Federal Lands Highways and Emergency Relief Programs, all apportionments and allocations received for demonstration projects, and the portion of allocations received pursuant to section 157, regarding minimum allocation, that is attributable to apportionments made under the Interstate Construction and Interstate Substitute programs in such years: *Provided that*, in calculating a State's per centum share under this subparagraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, 1995, and 1996, each State shall be deemed to have received one-half of one per centum of all funds apportioned for the Interstate Construction Program in fiscal years 1987, 1988, 1989, 1990, and 1991; and, *Provided further*, that in any fiscal year no State shall receive a percentage of total apportionments and allocations that is less than 70 per centum of its percentage of total apportionments and allocations for fiscal years 1987, 1988, 1989, 1990, and 1991, except for those States that receive an apportionment for interstate construction of more than $50,000,000 for fiscal year 1992.

"(C) ENERGY CONSERVATION, CONGESTION MITIGATION, AND CLEAN AIR BONUS.—This paragraph shall apply beginning in fiscal year 1993 and shall apply only to those States with one or more metropolitan statistical areas with a population of 250,000 or more. The amount of each such State's Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) shall be reduced by multiplying such amount by a factor of 0.9 if the State's vehicle miles of travel per capita is more than 110 per centum of its vehicle miles of travel in the base year. Reductions in apportionments made pursuant to the preceeding sentence shall be placed in a Surface Transportation Bonus Fund and shall be used, to the extent such funds are available, to increase the amount of Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) by a factor of 1.1 for each State affected by this paragraph, if such State's vehicle miles of travel per capita is less than 90 per centum of its vehicle miles of travel per capita in the base year. Funds remaining thereafter in the Surface Transportation Bonus Fund, if any, shall be apportioned to the States af-

fected by this paragraph in proportion to each State's share of Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) among all such States prior to any adjustments made pursuant to this paragraph. Funds so apportioned shall be treated as funds pursuant to section 133(b)(1)(A)(i) ara treated. For the purposes of this paragraph, the term 'base year' shall mean the year 1990 for fiscal years 1993, 1994, and 1995, and shall mean the year 1995 for fiscal years 1996 and all subsequent fiscal years.";

(2) striking "upon the Federal-aid systems" and inserting in lieu thereof "upon the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program, and the Interstate System";

(3) striking "paragraphs (4) and (5)" and inserting in lieu thereof "subparagraph (5)(A)"; and

(4) striking "and sections 118(c) and 307(d)" and inserting in lieu thereof "and section 307".

(c) FEDERAL SHARE.—Section 120(a) of title 23, United States Code, is amended by striking "Subject to the provisions of subsection (d) of this section, the" and inserting in lieu thereof "The"; by striking ", primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system, and the Federal-aid urban system" and inserting instead "Surface Transportation Program funds"; and by inserting "for capital projects that add capacity available to single occupant vehicles, except where the project consists of a high occupancy vehicle facility available to single occupant vehicles at other than peak travel times, and 80 per centum of the cost of construction for other projects", in two places after the words "cost of construction".

(d) GUIDANCE.—The Secretary shall develop and make available to the States guidance on how to determine what portion of any project under section 133 of title 23, United States Code, is eligible for an 80 per centum Federal share.

(e) CONFORMING AMENDMENTS.—The analysis of title 23, United States Code, is amended by striking "133. [Repealed P.L. 90-495]." and inserting in lieu thereof "133. Surface Transportation Program.".

SEC. 107. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149 of title 23, United States Code, is amended to read as follows:

"SEC. 149. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The Secretary shall establish a congestion mitigation and air quality improvement program pursuant to the requirements of this section.

"(a) ELIGIBLE PROJECTS.—A project may be funded under the congestion mitigation and air quality improvement program—

"(1) only if guidance issued by the Environmental Protection Agency pursuant to section 108(f) of the Clean Air Act, as amended, shows to the satisfaction of the Secretary, after consultation with the Administrator of the Environmental Protection Agency, that the project is likely to contribute to the attainment of any national ambient air quality standard, except in the case where such guidance is not available, only if the project is described in section 108(f) of the Clean Air Act, as amended;

"(2) the project is listed in a State implementation plan that has been approved pursuant to the Clean Air Act, as amended and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project is likely to contribute to the attainment of any national ambient air quality standard, whether through reductions in vehicle miles travelled, fuel consumption, or through other factors; and

only if the project does not result in the construction of new capacity available to single occupant vehicles, except where the project consists of a high occupancy vehicle facility available to single occupant vehicles at other than peak travel times.

"(b) DISTRIBUTION OF FUNDS.—Apportionments made under this section shall be made available in nonattainment areas as defined pursuant to the Clean Air Act, as amended, with urbanized area populations over 50,000 in proportion to the relative share of weighted nonattainment area population as calculated in section 104(b)(2) within the State; *Provided*, that each State that contains a nonattainment area shall receive a minimum apportionment of one-quarter of one per centum of the apportionment made under this section. Selection of projects for such funds shall be carried out by the metropolitan planning organization for each such area in accordance with the provisions of section 134 of title 23, United States Code.

"(c) FEDERAL SHARE.—The Federal Share payable for a project under this section shall not exceed 80 per centum of the cost of the project."

(b) APPORTIONMENT.—Section 104(b)(2) is amended to read as follows:

"(2) FOR THE CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—In the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States, where weighted nonattainment area population shall be calculated by multiplying the population of any nonattainment areas within any State that is in nonattainment for ozone by a factor of—

"(A) 1.0 if the area is classified as a marginal nonattainment area;

"(B) 1.1 if the area is classified as a moderate nonattainment area;

"(C) 1.2 if the area is classified as a serious nonattainment area;

"(D) 1.3 if the area is classified as a severe nonattainment area; and

"(E) 1.4 if the area is classified as an extreme nonattainment area;

where the classification of nonattainment areas is that used in the Clean Air Act, as amended, and by further multiplying the population of any non-attainment area by a factor of 1.2 if such area is in nonattainment for carbon monoxide.". Notwithstanding any other provision of this section, any State which is subject to air pollution control measures pursuant to Section 184 (related to Interstate Ozone Air Pollution) or Section 176A (related to Interstate Transport Commissions) of the Clean Air Act Amendments of 1990 shall receive a minimum of one-tenth of one per centum of the total funds apportioned under this section.

(c) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking "Sec. 149. Truck lanes." and inserting instead "Sec. 149. Congestion Mitigation and Air Quality Improvement Program."

SEC. 108. BRIDGE PROGRAM.

(a) FEDERAL SHARE.—Section 144(f) of title 23, United States Code, is amended to read as follows:

"(f) The Federal share payable for any project undertaken under this subsection shall be 80 per centum, except for any costs attributable to the expansion of the capacity of any bridge or the construction of any new bridge where such new capacity or new bridge is primarily available to single occupant vehicles, in which case the Federal share payable shall be 75 per centum. In the case where a State constructs a bridge or portion thereof not primarily available to single occupant vehicles pursuant to this section, and later converts the bridge or portion thereof to be primarily available to single occupant vehicles, the State shall repay to the United States, with interest, the amount of the additional cost born by the United States that would have been born by the State had the bridge or portion thereof been originally available primarily to single occupant vehicles.".

(b) NEW CAPACITY GUIDANCE.—The Secretary shall develop and make available to the States criteria for determining what share of any project undertaken pursuant to section 144 of title 23, United States Code, is attributable to the expansion of the capacity of a bridge where the new capacity is available to single occupant vehicles.

(c) BRIDGE PAINTING, SEISMIC RETROFIT, AND MAINTENANCE.—Section 144(e) of title 23, United States Code, is amended by adding at the end "Funds apportioned pursuant to this subsection shall be available for the painting and seismic retrofit of, or application of calcium magnesium acetate on, any bridge eligible for assistance under this section.".

(d) REPEAL OF DISCRETIONARY BRIDGE PROGRAM.—Section 144(g) of title 23, United States Code, is repealed.

(e) LEVEL OF SERVICE CRITERIA.—The Secretary shall, by January 1, 1992, in consultation with the States, establish level of service criteria for the Bridge Program, *Provided* that, notwithstanding the requirements of such criteria or of section 144 of title 23, United States Code, up to 35 per centum of bridge program funds made available to a State in any fiscal year shall be available for expenditure on any public bridge, provided that such expenditure conforms with the bridge management system adopted by the State.

(f) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking "Sec. 144. Highway bridge replacement and rehabilitation program." and inserting in lieu thereof "Sec. 144. Bridge Program."

(2) Section 144 of title 23, United States Code, is amended as follows:

(A) The title is amended to read "Sec. 144. Bridge Program.".

(B) Subsection (b) is repealed; and subsection (c) is amended by striking ", other than those on any Federal-aid system," and by striking "on and off the Federal-aid system;".

(C) Subsection (e) is amended by striking "(1) Federal-aid system bridges eligible for replacement,

(2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation." and inserting instead "(1) Bridges categorized for rehabilitation and (2) bridges categorized for replacement."; and (2) by striking "on the Federal-aid primary system" and inserting instead "under the Surface Transportation Program".

Sec. 109 INTERSTATE MAINTENANCE PROGRAM.

(a) LIMITATION ON NEW CAPACITY.—Section 119(a) of title 23, United States Code, is amended by inserting after the end of the first sentence: "Notwithstanding any other provision of this title, the portion of the cost

of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.";

(b) ADEQUATE MAINTENANCE OF THE INTERSTATE SYSTEM.—Section 119(f)(1) of title 23, United States Code, is amended by inserting at the end of the paragraph "The Secretary must find that the State is adequately maintaining the Interstate System to accept such a certification.";

(c) NON-FEDERAL MATCH REQUIREMENT.—

(1) Section 119(a) of title 23, United States Code, is amended by striking "section 120(c)" and inserting in lieu thereof "section 120(d)".

(2) Section 120(d) of title 23, United States Code, is amended to read as follows:

"(d) INTERSTATE MAINTENANCE.—The Federal share payable on account of any project undertaken for the maintenance of Interstate highways under the provisions of section 119 shall either—

"(1) not exceed 80 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

"(2) not exceed 80 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage of the area of all such lands in such State is of its total area, except that the Federal share payable on any project shall not exceed 95 per centum of the total cost of the project.

In any case where a State elects to have the Federal share as provided in paragraph (2), the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring the State to use solely for purposes eligible under this title (other than paying its share of projects undertaken pursuant to this title) during the period covered by the agreement the difference between the States share as provided in paragraph (2) and what its State's share would be if it elected to pay the share provided in paragraph (1) for all projects subject to the agreement.".

(d) GUIDANCE TO THE STATES.—The Secretary shall develop and make available to the States criteria for determining—

(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate Highway or bridge; and

(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.

(e) NON-CHARGEABLE SEGMENTS.—Section 104(b)(5)(B) of title 23, United States Code, is amended by adding "and routes on the Interstate system designated under section 139(a) of this title before January 1, 1984" after the phrase "under sections 103 and 139(c) of this title" each of the two times it appears in the first sentence.

(f) CONFORMING AMENDMENTS.—

(1) NEW TITLE.—The title of section 119 of title 23, United States Code, is amended to read "Sec. 119. Interstate Maintenance Program.";

(2) ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by striking "Sec. 119. Interstate System Resurfacing." and inserting in lieu thereof "Sec. 119. Interstate Maintenance Program.".

(3) Section 119 of title 23, United States Code, is amended—

(A) by striking out subsection (c), with regard to reconstruction, and inserting in lieu thereof the following new subsection:

"(c) Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.";

(B) by striking out subsection (e), with regard to toll facilities;

(C) by striking out, in subsection (a), ", rehabilitating, and reconstructing" and inserting in lieu thereof "and rehabilitating"; and

(D) in subsection (f)—

(i) by striking "PRIMARY SYSTEM" from the title and inserting in lieu thereof "SURFACE TRANSPORTATION PROGRAM"; and

(ii) by striking "rehabilitating, or reconstructing" and inserting in lieu thereof "or rehabilitating".

(4) APPORTIONMENT.— Section 104(b)(5)(B) of title 23, United States Code, is amended by striking "rehabilitating, and reconstructing" and inserting instead "and rehabilitating".

SEC. 110. INTERSTATE CONSTRUCTION PROGRAM.

(a) MASSACHUSETTS.—Paragraph 104(b)(5)(A) of title 23, United States Code, is amended by striking "upon the approval by Congress, the Secretary shall use the Federal share of such approval estimates in making apportionments for the fiscal year 1993" and inserting in lieu thereof—

"The Secretary shall use the Federal share of the 1991 Interstate Cost Estimate, adjusted to reflect (i) all previous credits, apportionments of Interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of Interstate segments, (iii) previous allocations of Interstate discretionary funds, and (iv) transfers of Interstate construction funds, to make apportionments for fiscal years 1993, 1994, 1995 and 1996 in the ratio in which the Federal share of the estimated cost of completing the Interstate System in a State bears to the Federal share of the sum of the estimated cost of completing the Interstate System in all of the States, except Massachusetts: *Provided*, That Massachusetts shall be apportioned $100,000,000 for the fiscal years 1993, $800,000,000 for the fiscal year 1994, $800,000,000 for the fiscal year 1995, and $850,000,000 for the fiscal year 1996.".

(b) CONFORMING AMENDMENTS.—Paragraph 104(b)(5)(A) of title 23, United States Code, is further amended by striking "1960 through 1990" the two places it appears and inserting instead "1960 through 1996"; and by striking "1967 through 1990" and inserting instead "1967 through 1996".

SEC. 111. FEDERAL LANDS HIGHWAYS PROGRAMS.

(a) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended as follows:

(1) Subsection (c) is amended by inserting at the end "The secretary shall allocate 66 per centum of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987."; and by inserting after "allocate" the words "34 per centum of".

(2) Subsection (a) is repealed and the following subsections are relettered accordingly.

(b) PROJECTS.—Section 204 of title 23, United States Code, is amended as follows:

(1) Subsection (b) is amended by inserting at the end "Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways."; and by striking "forest highways and".

(2) Subsection (a) is amended by striking "forest highways,"; and by inserting at the end "Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.".

(3) Subsection (c) is amended by striking "on a Federal aid system and inserting in lieu thereof "eligible for funds apportioned under section 104 or section 144 of this title".

(c) CONFORMING AMENDMENTS.—Section 203 of title 23, United States Code, is amended by striking "forest highways" in two places.

SEC. 112. TOLL FACILITIES.

(a) REPEAL OF NATIONAL POLICY.—Section 301 of title 23, United States Code, is hereby repealed. The analysis of chapter 3 of such title is amended by striking out the item relating to section 301.

(b) NEW REQUIREMENTS.—Section 129 of title 23, United States Code, is amended to read as follows: "Sec. 129. Toll Facilities.

"(a) PROHIBITION.—Tolls may not be imposed on any existing free Interstate Highway.

"(b) FEDERAL SHARE PAYABLE.—Except as provided in subsection (e), the Federal share payable for any project under this section shall not exceed 35 per centum of the cost of the project for construction of new toll facilities, and shall not exceed 80 per centum of the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities.

"(c) CONSTRUCTION OR CONVERSION OF FACILITIES.—Except as otherwise provided in this section, Federal funds to carry out this title may not be obligated on toll facilities or to convert free facilities to toll facilities. The Secretary may permit Federal participation, on the same basis and in the same manner as participation in projects on free highways under this title, in the construction of any toll highway, bridge, tunnel, or approach thereto, or the conversion of any free highway, bridge, tunnel or approach thereto to a toll facility, upon compliance with the provisions of this subsection, except that no Federal funds may be used to impose tolls on any existing free Interstate Highway. The highway, bridge, tunnel, or approach thereto must be publicly owned. The appropriate State transportation or highway department or departments must be party to an agreement with the Secretary that provides that—

"(1) all tolls received from the operation of the facility, less the actual cost of operation and maintenance, shall be applied to repayment, including debt service and reasonable return on investment, of the party financing the facility, except for amounts contributed by the United States; and

"(2) after the date of final repayment, revenues from tolls in excess of revenues needed to recover actual costs of operation and maintenance shall be used for any transportation project eligible under this title.

"(d) CONSTRUCTION OF FERRYBOATS AND FERRY APPROACHES.—The Secretary may permit Federal participation under this title in the construction of ferryboats and ferry approaches, whether toll or free, subject to the following conditions:

"(1) It is not feasible to build a bridge, tunnel, or other normal highway structure in lieu of the ferry.

"(2) The operation of the ferry shall not be on a route that is classified as local, as a rural minor collector, or as a route on the Interstate System.

"(3) The ferry shall be publicly owned and operated.

"(4) The operating authority and the amount of fares charged for passage on the ferry shall be under the control of the State, and all revenues shall be applied to actual and necessary costs of operation, maintenance, and repair, including replacement of ferryboats.

"(5) The ferry shall be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii, operations between the islands which comprise the Commonwealth of Puerto Rico, operations between the islands of Maine, and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of the ferry operations shall be in any foreign or international waters.

"(6) No ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from a disposition shall be credited to the unprogrammed balance of Surface Transportation Program funds last apportioned to the State. Any amounts credited shall be in addition to other funds then apportioned to the State and shall be available for expenditure in accordance with the provisions of this title.

"(e) CONGESTION PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot and public projects. The Secretary may enter into cooperative agreements with as many as five such State or local governments or public authorities to establish, maintain, and monitor congestion pricing projects.

"(2) Notwithstanding subsection (c), the Federal share payable for such programs shall be 100 per centum. The Secretary shall fund all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least one year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund any project for more than 3 years.

"(3) Revenues generated by any pilot project under this section must be applied to projects eligible under this title.

"(4) The Secretary shall monitor the effect of such projects for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

"(5) Of the sums made available the Secretary pursuant to section 104(a), not to exceed $5,000,000 shall be made available each fiscal year to carry out the requirements of this subsection.".

(c) EXISTING TOLL FACILITY AGREEMENTS.—At the request of the non-Federal parties to any toll facility agreement reached before October 1, 1991 under (1) section 105 of the Federal-Aid Highway Act of 1978; or (2) section 129 of title 23, United States Code, as in effect immediately prior to the date of enactment of this Act; the Secretary shall allow for the continuance of tolls without repayment of Federal funds.

SEC. 113. METROPOLITAN PLANNING.

(a) NEW REQUIREMENTS.—Section 134 of title 23, United States Code, is amended to read as follows:

"SEC. 134. METROPOLITAN PLANNING.

"(a) METROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization shall be designated for each urbanized area of over 50,000 in population within any State by agreement among the Governor and the units of general purpose local government. Each metropolitan planning organization shall designate boundaries for a metropolitan area pursuant to subsection (b) and shall carry out the transportation planning process required by this section. Metropolitan planning organizations in existence on or before October 1, 1991 shall be considered as being designated for the purposes of this section. Metropolitan planning organizations that represent portions of multi-State metropolitan areas shall, where feasible, provide for coordinated transportation planning for the entire metropolitan area by adopting a single transportation improvement program for such area. The Governor of any State may enter into such agreements as may be necessary with the Governor of any other State to provide for comprehensive multi-State transportation planning for metropolitan areas that encompass portions of more than one State.

"(b) METROPOLITAN AREA BOUNDARIES.—For the purposes of this title, the boundaries of any metropolitan area shall be determined by the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the area expected to become urbanized within the forecast period, and may encompass the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area as defined by the Bureau of the Census. For areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act, as amended, the boundaries of the metropolitan area shall be the boundaries of the nonattainment area, except as otherwise provided by the metropolitan planning organization.

"(c) GENERAL REQUIREMENT FOR PLANNING.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum—

"(1) consider preservation of existing transportation facilities and, where practical, meet transportation needs by using existing transportation facilities more efficiently;

"(2) provide that transportation planning is consistent with applicable Federal, State and local energy conservation programs, goals and objectives;

"(3) consider the need to relieve congestion and prevent congestion from occurring where it does not yet occur;

"(4) conform with the applicable requirements of the Clean Air Act as amended;

"(5) consider the effect of transportation policy decisions on land use and development, and assure that transportation plans and programs are consistent with the provisions of all applicable short- and long-term land use and development plans;

"(6) recommend, where appropriate, the use of innovative financing mechanisms, including value capture, tolls, and congestion pricing to finance projects and programs;

"(7) provide for the programming of expenditure on transportation enhancement activities as required in section 133;

"(8) consider the effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded;

"(9) consider the overall social, economic, and environmental effects of transportation decisions;

"(10) take into account international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations;

"(11) consider the need for connectivity of roads within the metropolitan area with roads outside the metropolitan area; and

"(12) develop a long range transportation plan.

"(d) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT OF PROGRAM.—The metropolitan planning organization, in cooperation with the State and relevant transit operators, shall develop a transportation improvement program that includes all projects within the metropolitan area proposed for funding pursuant to this title and the Urban Mass Transportation Act, that is consistent with the long range transportation plan developed by the metropolitan planning organization, and that conforms with the applicable State implementation plan developed pursuant to the Clean Air Act, as amended. The program may include a project only if full funding can be reasonably anticipated to be available for such project within the period of time contemplated for its completion. The program shall be updated at least every two years, and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include a priority list of projects and project segments to be carried out within each three-year period after the initial adoption of the transportation improvement program.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (e), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization, and shall be in conformance with the transportation improvement program for the area.

"(e) ADDITIONAL REQUIREMENTS FOR AREAS OF OVER 250,000 POPULATION AND NONATTAINMENT AREAS OVER 50,000 POPULATION.—

"(1) For metropolitan statistical areas of more than 250,000 population within any State and areas with an urbanized area population of over 50,000 that are in nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, within any

State, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by a metropolitan planning organization in cooperation with the State and transit operators.

"(2) The planning process shall include a congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies. In nonattainment areas for ozone or carbon monoxide, the development of the congestion management system shall be coordinated with the development of the transportation element of the State Implementation Plan required by the Clean Air Act as amended.

"(3) The Secretary shall assure that each metropolitan planning organization is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once per annum. The Secretary may certify a metropolitan planning organization only if it is complying with the requirements of section 134 and other applicable requirements of Federal law. If at any time after October 1, 1992 a metropolitan planning organization is not certified by the Secretary, the obligation authority attributed to the relevant metropolitan area pursuant to section 133(b)(1) shall lapse and be redistributed to other States in accordance with the requirements of section 104(d)(2), regarding redistribution of obligation authority.

"(4) SELECTION OF PROJECTS.—All projects carried out with Federal participation pursuant to this title (excluding projects undertaken pursuant to the Bridge and Interstate Maintenance Programs) or the Urban Mass Transportation Act within the boundaries of a metropolitan area covered under this subsection shall be selected by the metropolitan planning organization and the Governor in conformance with the transportation improvement program for such area and the priorities established therein. Projects undertaken pursuant to the Bridge and Interstate Maintenance Programs shall be selected by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement plan for the area.

"(5) The metropolitan planning organization for areas covered under this subsection shall provide for a fair and equitable distribution of funds within the metropolitan area.

"(6) Metropolitan planning organizations for areas covered under this subsection shall provide opportunity for public review of draft transportation plans and programs prior to final approval of such plans and programs.

"(f) ADDITIONAL REQUIREMENTS FOR NONATTAINMENT AREAS.—

"(1) Notwithstanding any other provision of law, for areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(2) If, at the end of any three-year planning period established pursuant to subsection (d), a project to be carried out within such period has not been carried out, any changes in emissions of pollutants that contribute to nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, that have been attributed to such project shall be discounted for the purposes of conformity review pursuant to section 176(c) of the Clean Air Act, as amended, (42 U.S.C. 7506(c)) until such time as binding commitments have been made to complete the project by a date certain.

"(3) For the purpose of determining conformity pursuant to section 176(c) of the Clean Air Act, as amended, (42 U.S.C. 7506(c)), the metropolitan planning organization shall take into account emissions expected to result from all projects to be carried out within the metropolitan area, whether such projects are publicly or privately funded.

"(g) REPROGRAMMING OF SET ASIDE FUNDS.—Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this subsection may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135.".

(b) ONE PERCENT SET ASIDE.—Section 104(f) of title 23, United States Code, is amended by striking in paragraph (1) "one-half per centum" and inserting in lieu thereof "one per centum"; by striking in paragraph (1) "the Federal-aid systems" and inserting in lieu thereof "programs authorized under this title"; by striking in paragraph (1) all after the fifth comma and inserting in lieu thereof "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate Construction and Interstate Substitute programs."; and by striking in paragraph (3) "section 120" and inserting in lieu there of "section 120(j)".

(c) APPORTIONMENT WITHIN A STATE.—Section 104(f)(4) of title 23, United States Code, is amended by striking "and metropolitan area transportation needs" and inserting in lieu thereof "attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable Federal law.".

(d) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking "Sec. 134 Transportation planning in certain urban areas." and inserting in lieu thereof "Sec. 134. Metropolitan Planning.".

(2) Section 104(f)(3) of title 23, United States Code, is amended by striking "designated by the State as being".

SEC. 114. STATEWIDE PLANNING.

(a) NEW REQUIREMENTS.—Section 135 of title 23, United States Code, is amended to read as follows:

"SEC. 135. STATEWIDE PLANNING.

"(a) MANAGEMENT SYSTEMS.—Each State shall have a Bridge Management System, a Pavement Management System, a Safety Management System, and a Congestion Management System developed in accordance with regulations prescribed by the Secretary, except that any State that certifies to the satisfaction of the Secretary that no significant congestion exists or is projected to exist within such State shall not be required to have a congestion management system. Systems shall include inventories and use current condition data to identify needs. The Secretary may withhold project approvals under section 106 and may decline to accept a notice and certification under section 133(c)(2) if a State fails to have approved systems. The regulations shall provide for periodic Federal review of the Management Systems.

"(b) TRAFFIC MONITORING SYSTEM.—Each State shall have a Traffic Monitoring System to provide statistically based data necessary for pavement management, bridge evaluation, safety management, congestion management, national studies, and other activities under this title. The Secretary shall establish guidelines and requirements for the Traffic Monitoring System.

"(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall—

"(1) take into account the results of the management systems required pursuant to subsection (a);

"(2) take into account any Federal, State or local energy use goals, objectives, programs or requirements;

"(3) take into account any valid State or local development or land use plans, programs, or requirements;

"(4) take into account international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations;

"(5) provide for comprehensive surface transportation planning for non-metropolitan areas;

"(6) be consistent with any metropolitan area plan developed pursuant to section 134;

"(7) provide for connectivity between metropolitan areas within the State and with metropolitan areas in other States;

"(8) take into account recreational travel and tourism;

"(9) take into account any State plan developed pursuant to the Federal Water Pollution Control Act; and

"(10) be coordinated with the development of any State implementation plan required under the Clean Air Act, as amended, and provide for compliance with any relevant requirements of such plan and such Act.

"(d) ADDITIONAL REQUIREMENTS FOR STATES CONTAINING NON ATTAINMENT AREAS.—Any State containing an area in nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, shall develop and update at least every two years a long range transportation plan. In addition to the requirements in subsection (c), such plan shall—

"(1) incorporate without amendment the provisions of any metropolitan area plan developed pursuant to section 134; and

"(2) provide for coordination in the development of the State transportation plan required pursuant to this section and the State implementation plan required pursuant to the Clean Air Act, as amended.

"(e) FUNDING.—Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.".

(b) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking "Sec. 135. Traffic operations improvement programs." and inserting in lieu thereof "Sec. 135. Statewide Planning.".

SEC. 115. RESEARCH AND DATA COLLECTION.

(a) RESEARCH PROGRAM.—Section 307 of title 23, United States Code, is amended as follows:

(1) NEW REQUIREMENTS.—Subsection (b) is redesignated (b)(1), and the following new paragraphs are added thereafter:

"(2) The highway research program shall include a coordinated long term program of research on Intelligent Vehicle Highway Systems.

"(3) The highway research program shall include a coordinated long term program of research for the development, use and dissemination of performance indicators to measure the performance of the surface transportation system, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system.

"(4) The highway research program shall continue those portions of the work of the Strategic Highway Research Program that the Secretary deems to be important.

"(5) The Secretary shall create and administer a transportation research fellowship program to attract qualified students to the field of transportation engineering and research, which shall be known as The Dwight David Eisenhower Transportation Fellowship Program. No less than $2 million per fiscal year of the funds set aside pursuant to section 307 shall be made available to carry out this paragraph.".

(2) Subsection (c) is amended by striking "highway programs and local public transportation systems" and inserting in lieu thereof "transportation programs"; by striking "highway usage" and inserting in lieu thereof "transportation"; and by striking "highways and highway systems" and inserting in lieu thereof "transportation systems".

(b) FEDERAL SHARE FOR STATE RESEARCH ACTIVITIES.—Section 120(j) is amended by striking "85 per centum" and inserting in lieu thereof "80 per centum"; and by striking "exclusive of" and inserting in lieu thereof ", and".

(c) STATE AUTHORITY TO PROGRAM FUNDS.—Section 307(c) of title 23, United States Code, is amended by striking "upon the request of the State highway department, with the approval of the Secretary, with or without State funds," in paragraph (1); by striking "Not to exceed 1½ per centum" and inserting in lieu thereof "Two per centum"; by striking "section 104" and inserting in lieu thereof "sections 104 and 144"; and by repealing paragraphs (2) and (3).

(d) DATA COLLECTION AND ANALYSIS.—

(1) BUREAU OF TRANSPORTATION STATISTICS.—There is hereby established within the Department of Transportation a Bureau of Transportation Statistics. The Bureau shall be headed by a Director (hereafter referred to as the 'Director'), who shall be appointed by the President with the advice and consent of the Senate, and who shall be removable only for cause.

(2) NEW REQUIREMENTS.—Section 303 of title 23, United States Code, is amended to read as follows:

"SEC. 303. DATA COLLECTION AND ANALYSIS.

"(a) PROGRAM.—The Director of the Bureau of Transportation Statistics, in cooperation with the States, shall pursue a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. This effort shall—

"(1) be coordinated with the efforts undertaken pursuant to section 307(b)(3) to develop performance indicators for the national transportation system;

"(2) assure that data and other information is collected in a manner to maximize the ability to compare data from different regions and time periods; and

"(3) assure that data is quality controlled for accuracy and is disseminated to the States and other interested parties.

"(b) ESTIMATES.—The Director shall, on an annual basis, produce estimates of productivity in the various portions of the transportation sector, traffic flows, travel times, vehicle weights, variables influencing traveller behavior including choice of mode, travel costs of intracity commuting and intercity trips, frequency of vehicle and transportation facility repairs and other interruptions of service, accidents, collateral damage to the human and natural environment, and the condition of the transportation system, which estimates shall be suitable for conducting cost-benefit studies and other analysis necessary for prioritizing transportation system problems and analyzing proposed solutions.

"(c) REPORTS.—Beginning on October 1, 1992, and every 12 months thereafter, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing the estimates described in subsection (b) and otherwise describing the status of the transportation system in the United States.

"(d) COLLECTION OF DATA.—The Secretary may use any authority granted under this or any other title, or any Act to collect data the Secretary deems to be important in carrying out the provisions of this section.".

(3) FUNDING.—Section 104(a) of title 23, United States Code, is amended by inserting ", data collection, and other programs" after "research"; and by inserting ", and section 303" after "section 307".

(4) ANALYSIS.—The analysis for chapter 3 of title 23, United States Code, is amended by striking "Sec. 303. [Repealed. P.L. 97-449]." and inserting in lieu thereof "Sec. 303. Data Collection and Analysis.".

(e) FUNDAMENTAL PROPERTY STUDIES.—(1) The Administrator of the Federal Highway Administration (hereafter in this subsection referred to as the 'Administrator') is directed to conduct fundamental chemical property and physical property studies of petroleum asphalts and modified asphalts used in highway construction in the United States with the primary emphasis of prediction of pavement performance from the fundamental and rapidly measurable properties of asphalts and modified asphalts.

(2) In carrying out the studies in paragraph (1), the Administrator shall enter into contracts with a non-profit organization with demonstrated expertise in research associated in the above areas in order to undertake the necessary technical and analytical research in coordination with existing programs, including the Strategic Highway Research Program, that evaluate actual performance of asphalts and modified asphalts in roadways.

(3) ACTIVITIES OF STUDIES.—The Administrator in conducting the studies in this subsection shall include the following activities:

(A) fundamental composition studies;

(B) fundamental physical and rheological property studies;

(C) asphalt-aggregate interaction studies;

(D) coordination of composition studies, physical and rheological property studies and asphalt-aggregate interaction studies for the purposes of prediction of pavement performance including refinements of strategic Highway Research Program specifications.

(4) The Administrator, in coordination with a non-profit research organization, shall implement a test strip, the purpose of which shall be to demonstrate and evaluate unique energy and environmental advantages of the use of shale oil modified asphalts under extreme climate conditions. The Administrator shall report to Congress on his findings as required under paragraph (6). Such findings shall include an evaluation of this test strip and legislative recommendations on a national program to support American transportation and energy security requirements. In no event shall this report be submitted after November 30, 1995. For purposes of construction activities related to this test strip the Administrator and the Director of the National Park Service shall make the necessary funds available in equal amounts from the Park and Parklands allocation for the Federal lands highway program.

(5) AUTHORIZATIONS.—The Administrator shall provide at least $3 million for each of fiscal years 1992, 1993, 1994, 1995 and 1996 to carry-out the provisions of paragraph (2).

(6) ANNUAL REPORT TO CONGRESS.—On November 30 of each year, the Administrator shall report to Congress on progress in implementing the provisions of this subsection in the preceding fiscal year. For purposes of fiscal year 1992, the Administrator shall provide a report on proposed activities within one hundred eighty days of enactment of this section.

SEC. 116. MAGNETIC LEVITATION TRANSPORTATION.

(a) DECLARATION OF POLICY.—Section 101(c) of title 23, United States Code, is amended to read as follows:

"(c) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.".

(b) NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.—

(1) MANAGEMENT OF PROGRAM.—(A) There is hereby established a National Magnetic Levitation Design Program to be managed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereafter referred to as 'the Assistant Secretary'.) In carrying out such program, the Secretary and the Assistant Secretary shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency. The Secretary and the Assistant Secretary shall establish a National Maglev Joint Project Office (hereafter referred to as the 'Maglev Project Office') to carry out such program, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions.

(B) STRATEGIC PLAN.—The Secretary and the Assistant Secretary, in consultation with appropriate Federal officials including the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop a national strategic plan for the design and construction of a national magnetic levitation surface transportation system. Such plan shall consider other modes of high speed surface transportation, including high speed rail. The plan shall be completed and transmitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives within 18 months of the date of enactment of this Act.

(2) PHASE ONE GRANTS.—(A) Not later than 3 months after the date of enactment of this Act, any eligible participant may submit to the Maglev Project Office a proposal for research and development of a conceptual de-

sign for a maglev system and an application for a grant to carry out that research and development.

(B) Not later than 6 months after the date of enactment of this Act, the Secretary and the Assistant Secretary shall award grants for one year of research and development to no less than six applicants. If fewer than six complete applications have been received, grants shall be awarded to as many applicants as is practical.

(C) The Secretary and the Assistant Secretary may approve a grant under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights of way, the potential for the guideway design to be a national standard, and the bidder's resources, capabilities, and history of successfully designing and developing systems of similar complexity; *Provided that*, the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development, and agrees to provide for matching of the phase one grant at a 90 per centum Federal, 10 per centum non-Federal cost share.

(D) For purposes of this section, the term 'eligible participant' means United States private businesses, United States public and private education and research organizations, Federal laboratories, and consortia of such businesses, organizations and laboratories.

(3) PHASE TWO GRANTS.—Within 3 months of receiving the reports under paragraph (2), the Secretary and the Assistant Secretary shall select not more than 3 participants to receive one-year grants for research and development leading to a final design for a maglev system. The Secretary and the Assistant Secretary may only award grants under this paragraph if they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into a national system, and if the applicant agrees to provide for matching of the phase two grant at a 80 per centum Federal, 20 per centum non-Federal cost share.

(4) PROTOTYPE.—(A) Within 6 months of receiving the final designs developed under paragraph (3), the Secretary and the Assistant Secretary shall select one design for development into a full scale prototype. Not more than 3 months after the selection of such design, the Secretary and the Assistant Secretary shall award one prototype construction grant to a State government, local government, organization of State and local governments, consortium of United States private businesses or any combination of these entities for the purpose of constructing a prototype maglev system in accordance with the selected design.

(B) Selection of the grant recipient under this paragraph shall be based on the following factors:

(i) The project shall utilize Interstate highway rights of way.

(ii) The project shall have sufficient length to allow significant full speed operations between stops.

(iii) No more than 75 per centum of the cost of the-project shall be borne by the United States.

(iv) The project shall be constructed and ready for operational testing within 3 years after the award of the grant.

(v) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(vi) The project shall be located in an area that provides a potential ridership base for future ccmmercial operation.

(vii) The project shall be located in an area that experiences climatic and other environmental conditions that are representative of such conditions in the United States as a whole.

(viii) The project shall be suitable for eventual inclusion in a national magnetic levitation system network.

(c) LICENSING.—

(1) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this Act shall be disclosed.

(2) COMMERCIAL INFORMATION.—The research, development and use of any technology developed pursuant to an agreement reached pursuant to this section, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary and the Assistant Secretary may require any grant recipient to assure that research and development shall be performed substantially in the United States, and that the products embodying the inventions made under any agreement pursuant to this section or produced through the use of such inventions shall be manufactured substantially in the United States.

(d) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated to carry out this section shall remain available until expended.

(e) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports on progress made under this section to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(f) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, the requirements of chapter 1 of title 23, United States Code, shall apply to the provisions of this section.

SEC. 117. ACCESS TO RIGHTS OF WAY.

(a) AVAILABILITY OF RIGHTS OF WAY.—Subsection 142(g) of title 23, United States Code, is amended to read as follows:

"(g) In any case where sufficient land exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, highway and non-highway public mass transit facilities the Secretary shall authorize a State to make such lands and rights-of-way available with or without charge to a publicly or privately owned authority or company for such purposes.".

(b) AVAILABILITY OF AIRSPACE.—Section 156 of title 23, United States Code, is amended by adding before the period at the end of the first sentence the following: ": *Provided*, That the States may permit governmental use, use by public or private entities for passenger, commuter, or high speed rail, magnetic levitation systems, or other transit, utility use and occupancy where such use or occupancy is necessary for a transportation project allowed under this section, or use for transportation projects eligible for assistance under this title, with or without charge.".

(c) CONFORMING AMENDMENTS.—Section 142 of title 23, United State Code, is amended as follows:

(1) Paragraph (a)(1) is amended by striking "of the Federal-aid systems"; and by striking "project on any Federal-aid system" and inserting in lieu thereof "Surface Transportation Program project or as an Interstate construction project".

(2) Paragraph (a)(2) is repealed.

(3) Subsection (c) is repealed.

(4) Paragraph (e)(2) is repealed.

(5) Subsections (i) and (k) are repealed.

SEC. 118. REPORT ON REIMBURSEMENT FOR SEGMENTS CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

The Secretary shall update the findings of the report required by Section 114 of the Federal-Aid Highway Act of 1956 to determine what amount the United States would pay to the States to reimburse the States for segments incorporated into the Interstate System that were constructed at non-Federal expense. The report required under this section shall be completed by October 1, 1993, and shall be transmitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 119. DISADVANTAGE BUSINESS ENTERPRISES.

(a) CONTINUATION OF CURRENT LAW.—Section 106(c)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking "titles I and III of this Act or obligated under" and inserting instead "the Surface Transportation Efficiency Act of 1991 or obligated under titles I and III of this Act and ".

(b) ADJUSTMENT FOR INFLATION.—Sec. 106(c)(2)(A) of such 1987 Act is amended by striking "14,000,000" and inserting instead "15,370,000".

SEC. 120. AVAILABILITY OF FUNDS.

(a) Section 118 of title 23, United States Code, is amended to read as follows:

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Account of the Highway Trust Fund to carry out this title shall be available for obligation when apportioned or allocated, or on October 1 of the fiscal year for which they are authorized, whichever first occurs.

"(b) PERIOD OF AVAILABILITY.—

"(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate Construction in a State shall remain available for obligation in that State until the close of the fiscal year in which they are apportioned or allocated. Sums not obligated by the close of the fiscal year in which they are apportioned or allocated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All sums apportioned or allocated on or after October 1, 1994 shall remain available in the State until expended and: *Provided further*, that all sums apportioned or allocated to Massachusetts on or before October 1, 1989 shall remain available until expended.

"(2) OTHER FUNDS.—Except as otherwise specifically provided, funds (other than Interstate Construction) apportioned or allocated pursuant to this title in a State shall remain available for obligation in that State for a period of three years after the close of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

"(c) ALASKA AND PUERTO RICO.—Funds made available to the State of Alaska and the Commonwealth of Puerto Rico under this title may be expended for construction of access and development roads that will serve resource development, recreational, residential, commercial, industrial, and other like purposes.".

SEC. 121. PROGRAM EFFICIENCIES.

(a) Section 102 of title 23, United States Code, is amended to read as follows:

"SEC. 102. PROGRAM EFFICIENCIES.

"(a) STANDARDS.—Except as provided in section 133(c), projects undertaken pursuant to the Surface Transportation Program must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards. The design and construction standards to be adopted for highways classified as principal arterials shall be those approved by the Secretary in cooperation with the State highway departments and the American Association of State Highway and Transportation Officials. Any State may request that the Secretary no longer review and approve design and construction standards for any project other than a project on an Interstate highway or other multi-lane limited access control highways, except as provided in subsection (b), regarding resurfacing projects. After receiving any such request the Secretary shall undertake project review only as requested by the State.

"(b) PAVEMENT REHABILITATION PROJECTS.—Notwithstanding any other provision of this title, a State highway or transportation department may approve the design of a pavement rehabilitation project or highway resurfacing project on any project constructed pursuant to this title, *provided* that States comply with the requirements of all other applicable Federal laws and regulations.

"(c) HIGHWAY MAINTENANCE STANDARDS.—Notwithstanding any other provision of this title, a State highway or transportation department may establish maintenance standards for projects constructed pursuant to this title, which shall be subject to annual approval by the Secretary. The Secretary may not withhold project approval pursuant to section 106 if a State is meeting maintenance standards approved by the Secretary under this section.

"(d) HOV PASSENGER REQUIREMENTS.—A State highway or transportation department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes *Provided*, that no fewer than two occupants may be required. For the purposes of this title and the Surface Transportation Efficiency Act of 1991, motorcycles and bicycles shall not be considered single occupant vehicles. Nothing in this title or the Surface Transportation Efficiency Act of 1991 shall be construed as altering the provisions or effect of section 163 of the Highway Improvement Act of 1982.

"(e) ENGINEERING COST REIMBURSEMENT.—A State shall refund to the Highway Trust Fund all Federal funds for preliminary engineering for any project if the project has not yet advanced to construction or acquisition of right-of-way within 10 years of receipt of such Federal funds.".

(b) HISTORIC AND SCENIC VALUES.—Section 109 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(p) Where a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or where such project is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) and section 133(c) if such project is designed to standards that allow for the preservation of these values: *Provided*, that such project is designed with mitigation measures to allow preservation of these values and ensure safe operation of the project.".

(c) DELEGATION OF RESPONSIBILITIES.—Section 302 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(c) At the request of the Governor of any State, the Secretary is authorized to permit the highway or transportation department of a municipality of over 1 million population within the State to perform all such duties and responsibilities regarding projects undertaken within the municipality as are delegated to it that would otherwise be the responsibility of the State highway or transportation department.".

(d) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking "Sec. 102. Authorizations." and inserting in lieu thereof "Sec. 102. Program efficiencies.".

SEC. 122. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) NEW REQUIREMENTS.—Section 153 of title 23, United States Code, is amended to read as follows:

"153. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

"(a) STATE LAWS.—

"(1) FISCAL YEAR 1995.—If, at any time in fiscal year 1994 a State does not have in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body;

the State shall expend for highway safety programs 1.5 per centum of the amount apportioned to such State for fiscal year 1995 under section 104(b)(1).

"(2) AFTER FISCAL YEAR 1995.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) has a safety belt properly fastened about the individual's body;

the State shall expend for highway safety programs 3 per centum of the amount apportioned to such State for the succeeding fiscal year under section 104(b)(1). A State which is required to expend funds for highway safety programs under this subsection shall expend such funds for purposes eligible under section 402 and section 130.

"(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under this subsection shall be 100 per centum.

"(4) AVAILABILITY.—Notwithstanding the requirements of section 118, funds subject to the set aside under this subsection shall be available only in the year for which they were apportioned, and shall thereafter lapse. For the purposes of making expenditures of such funds, a State shall use an amount of the obligation authority distributed for the Surface Transportation Program for the fiscal year in which the set aside apportionments were made equal to the amount required to be expended under this subsection.

"(b) GRANTS TO STATES.

"(1) STATE ELIGIBILITY.—The Secretary may make grants to a State in accordance with this section if such State has in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

"(2) USE OF GRANTS.—a grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

"(A) To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

"(B) To train law enforcement officers in the enforcement of State laws described in paragraph (1).

"(C) To monitor the rate of compliance with State laws described in subsection (a).

"(D) To enforce State laws described in paragraph (1).

"(3) MAINTENANCE OF EFFORT—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's 2 fiscal years preceding the date of the enactment of this section.

"(4) FEDERAL SHARE.—A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed—

"(A) in the first fiscal year such State receives a grant, 75 per centum of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

"(B) in the second fiscal year such State receives a grant, 50 per centum of the cost of implementing in such traffic safety program; and

"(C) in the third fiscal year such State receives a grant, 25 per centum of the cost of implementing in such fiscal year such traffic safety program.

"(5) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 per centum of the amount apportioned to such State for fiscal year 1990 under section 402.

"(6) ELIGIBILITY FOR GRANTS.—

"(A) A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

"(B) A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a

grant under this section only if the State in the preceding fiscal year—

"(i) has in effect at all times a State law described in paragraph (1)(A) and achieves a rate of compliance with such law of not less than 75 per centum; and

"(ii) has in effect at all times a State law described in paragraph (1)(B) and achieves a rate of compliance with such law of not less than 50 per centum.

"(C) A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(i) has in effect at all times a State law described in paragraph (1)(A) and achieves a rate of compliance with such law of not less than 85 per centum; and

"(ii) has in effect at all times a State law described in paragraph (1)(B) and achieves a rate of compliance with such law of not less than 70 per centum.

"(c) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsection (b) (2) and (3), a State shall measure compliance with State laws described in subsection (b)(1) using methods which conform to guidelines to be issued by the Secretary ensuring that such measurements are accurate and representative.

"(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) The term 'child restraint system' means a device which is designed for use in a passenger vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

"(2) The term 'motorcycle' means a motor vehicle with motive power which is designed to travel on not more than 3 wheels in contact with the surface.

"(3) The term 'passenger vehicle' means a motor vehicle with motive power which is designed for transporting 10 individuals or less, including the driver, except that such term shall not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"(4) The term 'safety belt' means—

"(A) with respect to open-body vehicles and convertibles, and occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.".

"(e) AUTHORITY.—All provisions of chapter 1 of this title that are applicable to Surface Transportation Program funds, other than provisions relating to the apportionment formula, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.".

(b) STUDY.—The Secretary shall conduct a study to collect and analyze data from trauma centers regarding differences in injuries, medical costs, payor mix, and unreimbursed costs of restrained and unrestrained, helmeted and non-helmeted victims of motor vehicle and motorcycle crashes. Of the amounts authorized to be appropriated for fiscal year 1992 to carry out the requirements of this section, not less than $5,000,000 shall be available to carry out this subsection. Public education and information activities in support of State and community motorcycle safety and safety belt programs shall be eligible for funds authorized to be appropriated for this study. Approval by the Secretary of Transportation of the payment of such sums shall establish a contractual obligation of the United States to pay such sums.

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue regulations to carry out section 153 of title 23, United States Code.

(d) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking "Sec. 153. [Repealed.] and inserting in lieu thereof "Sec. 153. Use of Safety Belts and Motorcycle Helmets.".

SEC. 123. CREDIT FOR NON-FEDERAL SHARE.

(a) ELIGIBILITY.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act and title 23, United States Code, those funds that are generated and used by public, quasi-public and private agencies to build, improve, or maintain transportation infrastructure that serves the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such transportation infrastructure without Federal funds

(b) MAINTENANCE OF EFFORT.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

(c) TREATMENT.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non Federal match other than those to which such agency is already subject.

SEC. 124. ACQUISITION OF RIGHTS-OF-WAY.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108(c)(3) of title 23, United States Code, is amended by striking out "ten" and inserting in lieu thereof "twenty".

(b) EARLY ACQUISITION OF RIGHTS-OF-WAY.—Section 108 of title 23, United States Code, is further amended by adding subsection (d) as follows:

"(d) EARLY ACQUISITION OF RIGHTS-OF-WAY.—Federal funds may be used to participate in payment of the costs incurred by a State for the acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, which are subsequently incorporated into a project, and the costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values. The Federal share payable of the costs shall be eligible for reimbursement out of funds apportioned to the State when the rights-of-way acquired are incorporated into a project eligible for surface transportation funds, if the State demonstrates to the Secretary that—

"(1) any land acquired, and relocation assistance provided complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;

"(2) title VI, of the Civil Rights Act of 1964 has been complied with;

"(3) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and that the acquisition is certified by the Governor as consistent with the State plans prior to the acquisition;

"(4) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this Act;

"(5) the alternative for which the right-of-way was acquired was selected by the State pursuant to regulations to be issued by the Secretary, which provide for the consideration of the environmental impacts of various alternatives;

"(6) prior to the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 4(f) of the Department of Transportation Act, section 7 of the Endangered Species Act, and other environmental laws as identified by the Secretary in regulations; and

"(7) prior to the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired under this section did not influence the environmental assessment of the project, including the decision relative to the need to construct the project or the selection of the specific location.".

(c) CONFORMING AMENDMENTS.—Section 108 of title 23, United States Code, is further amended—

(1) in subsection (a), by striking out "on any of the Federal-aid highway systems, including the Interstate System," each of the two places it appears;

(2) in subsection (c)(2), by striking "on any Federal-aid system"; and

(3) in subsection (c)(3) by striking "on the Federal-aid system of which such project is to be a part".

SEC. 125. TRANSPORTATION IN PARKLANDS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park System. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands. Such study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) AUTHORIZATION OF APPROPRIATIONS.—From within the sums authorized to be appropriated for subsection 202(d) of title 23, United States Code, $300,000 shall be made available to carry out this section.

SEC. 126. TRAFFIC CONTROL STANDARDS.

The Secretary shall revise the Manual of Uniform Traffic Control Devices to include—

(a) a standard for a minimum level of retroreflectivity that must be maintained

for pavement markings and signs, which shall apply to all roads open to public travel;

(b) a standard to define the roads that must have a center line or edge lines or both, provided that in setting such standard the Secretary shall consider the functional classification of roads, traffic volumes, and the number and width of lanes.

SEC. 127. USE OF RUBBER-MODIFIED ASPHALT.

(a) Beginning on the date four years after the date of enactment of this Act, the Secretary shall make no grant to any State under title 23, United States Code, other than for projects or grants for safety where the Secretary determines that the principal purpose of the project is an improvement in safety that will result in a significant reduction in or avoidance of accidents, for any year unless the State shall have submitted to the Secretary a certification that not less than 10 per centum of the asphalt pavement laid in the State in such year and financed in whole or part by such grants shall be rubber-modified asphalt pavement. The Secretary may establish a phase-in period for the requirements established by this section, if the Secretary determines that such phase-in period is necessary to establish production and application facilities for rubber-modified asphalt pavement. Such phase-in period shall not extend beyond the date eight years after the date of enactment of this section. The Secretary may increase the percentage of rubber-modified asphalt pavement to be used in Federally-assisted highway projects to the extent it is technologically and economically feasible and if an increase is appropriate to assure markets for the reuse and recycling of waste tires.

(b) The Secretary may set aside the provisions of this section for any three-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to paragraphs (1) and (2), that there is reliable evidence indicating—

(1) that techniques for mixing and applying rubber modified asphalt pavement substantially increase risks to human health or the environment as compared to the risks associated with mixing and applying conventional pavement;

(2) that rubber-modified asphalt pavement cannot be recycled to the same degree as conventional pavement; or

(3) that rubber-modified asphalt pavement does not perform satisfactorily as a material for the construction or surfacing of highways and roads.

(c) Any determination made to set aside the requirements of this section may be renewed for an additional three-year period by the Secretary, with the concurrence of the Administrator with respect to determinations made under subsections (b)(1) and (b)(2). Any determination made with respect to subsection (b)(3) may be made for specific States or regions considering climate, geography and other factors that may be unique to the State or region.

(d) The Secretary shall establish a rubber-modified asphalt pavement utilization percentage of less than 10 per centum in a particular State, upon the request of such State and with the concurrence of the Administrator of the Environmental Protection Agency, if the Secretary determines that there is not a sufficient quantity of waste tires available prior to disposal in the State to meet the 10 per centum requirement established by subsection (a) and each of the other recycling and processing uses, including retreading, for which waste tires are required.

(e) The Secretary may grant a State credit toward the requirement that 10 per centum of the asphalt pavement used in Federally-assisted highway projects in the State be rubber modified asphalt pavement for volumes of rubber-modified pavement used in other road and construction projects and for asphalt pavement containing rubber at rates less than 60 pounds per ton, provided that the total amount of rubber used in asphalt pavement containing rubber in the State in any year is at least equivalent to the amount that would be used if 10 per centum of the pavement used in Federally-assisted highway projects was rubber-modified asphalt pavement.

(f) For purposes of this section—

(1) the term 'process' means the utilization of tires to reclaim material or energy value;

(2) the term 'recycle' means to process waste tires to produce usable materials other than fuels;

(3) the term 'rubber-modified asphalt pavement' means asphalt pavement averaging not less than 60 pounds of crumb rubber or other tire-derived material for each ton of finished product and may be formulated from hot mix or cold mix processes for use in base or surface applications.

SEC. 128. RIGHT-OF-WAY REVOLVING FUND.

Section 108 of title 23, United States Code, is amended—

(a) in subsection (a) by striking out "on any of the Federal-aid highway systems, including the Interstate System" in each of the two places it appears; by striking out "State highway department" in each of the two places it appears and inserting in lieu thereof "State transportation department"; and by inserting "or passenger rail facility" after "road"; and

(b) in subsection (c) by inserting "and passenger rail facilities" after "highways" in paragraph (2); by striking "on any Federal-aid system" in paragraph (2); by striking "State highway department" and inserting in lieu thereof "State transportation department" in paragraph (2); by inserting "or passenger rail facility" after "highway" in each of the two places it appears in paragraph (3); and by striking "on the Federal-aid system of which such project is to be a part" in paragraph (3).

SEC. 129. SCENIC AND HISTORIC HIGHWAYS.

There is hereby created a National Scenic and Historic Byways Program, and an Office of Scenic and Historic Byways within the Federal Highway Administration, which Office shall administer the program. The Office shall provide technical assistance to the States and shall provide grants for the planning, design and development of State scenic byway programs. The Secretary, in consultation with the Secretaries of Agriculture, Interior, and Commerce, and other interested parties, shall establish criteria for roads to be designated as part of an All American Roads program. The Secretary shall designate the roads to be included in the All American Roads program. Roads considered for such designation shall be nominated by the States and Federal agencies. For all State owned roads nominated by Federal agencies, the State shall concur in the nomination. The sum of $5 million per year is authorized to be appropriated for the purposes of carrying out this section. The Secretary shall establish criteria for allocating such funds to the States.

SEC. 130. NATIONAL HIGHWAY SYSTEM.

Within two years of the date of enactment of this Act, the Secretary shall submit to the Congress a proposal for a National Highway System to provide an intercontinental system of principal arterial routes which will serve major population centers, ports, airports, international border crossings, and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel. The National Highway System shall consist of highways on the Interstate system and other specified urban and rural principal arterials, including toll facilities.

SEC. 131. DEFINITIONS.

(a) NEW DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended adding definitions for "carpool project", "hazard elimination", "magnetic levitation system", "metropolitan area", "open to public travel", "operational improvement", "public authority", "public lands highway", "railway-highway crossing", "reconstruction", and "transportation enhancement activities" as follows:

"The term 'carpool project' means any project to encourage the use of carpools and vanpools, including but not limited to provision of carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"The term 'hazard elimination' means the correction or elimination of hazardous locations, sections or elements, including roadside obstacles and unmarked or poorly marked roads which may constitute a danger to motorists, bicyclists or pedestrians.

"The term 'magnetic levitation system' means any facility (including vehicles) using magnetic levitation for transportation of passengers or freight that is capable of operating at high speeds, and capable of operating along Interstate highway rights of way.".

"The term metropolitan area means an area so designated pursuant to section 134.".

"The term 'open to public travel' means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulations other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates."

"The term 'operational improvement' means a capital improvement other than (1) a reconstruction project; (2) additional lanes except high occupancy vehicle lanes; (3) interchange and grade separations; or (4) the construction of a new facility on a new location. The term includes the installation of traffic surveillance and control equipment; computerized signal systems; motorist information systems, integrated traffic control systems; incident management programs; transportation demand management facilities, strategies, and programs; high occupancy vehicle preferential treatments including the construction of high occupancy vehicle lanes; and spot geometric and traffic control modifications to alleviate specific bottlenecks and hazards."

"The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate or maintain toll or toll-free facilities.

"The term 'public lands highway' means a forest road under the jurisdiction of and

maintained by a public authority and open to public travel, or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by, a public authority and open to public travel.

"The term 'railway-highway crossing project' means any project for the elimination of hazards of railway-highway crossings, including the protection or separation of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

"The term 'reconstruction' means the addition of travel lanes and the construction and reconstruction of interchanges and over crossings, including acquisition of right-of-way where necessary.

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, highway safety improvement projects other than repaving projects, railway-highway crossing projects, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities including historic railroad facilities and canals, preservation of abandoned railway corridors including the conversion and use thereof for pedestrian or bicycle trails, control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.

(b) CONFORMING AMENDMENTS.—

(1) The definition for "highway" is amended by inserting "scenic easements" after "and also includes".

(2) The definitions for "Federal-aid highways", "Federal-aid system", "Federal-aid primary system", "Federal-aid secondary system", "Federal-aid urban system", "forest highway", "project", and "urban area" are repealed.

(3) The definition for "Indian reservation roads" is amended by striking ", including roads on the Federal-aid systems,".

(4) The definition for "park road" is amended by inserting ", including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles," before "that is located in".

Sec. 132. FUNCTIONAL RECLASSIFICATION.

A functional reclassification, which shall be updated periodically, should be undertaken by each State (as that term is defined in section 101 of title 23, United States Code), the United States Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands, by September 30, 1992, and shall be completed by September 30, 1993 in accordance with guidelines that will be issued by the Secretary. The functional reclassification shall classify all public roads (as that term is defined in section 101 of title 23, United States Code).

Sec. 133. REPEAL OF CERTAIN SECTIONS OF Title 23, UNITED STATES CODE.

(a) The following portions of title 23, United States Code, are hereby repealed, including the chapter analyses relating thereto:

(1) Section 105, relating to programs;

(2) Section 117, relating to certification acceptance;

(3) Section 122, relating to bond retirement;

(4) Section 126, relating to diversion of funds;

(5) Section 137, relating to parking facilities;

(6) Section 146, relating to carpools;

(7) Section 147, relating to priority primary projects;

(8) Section 148, relating to a national recreational highway;

(9) Section 150, relating to urban system funds;

(10) Section 152, relating to hazard elimination;

(11) Section 155, relating to lake access highways;

(12) Section 201, relating to authorizations;

(13) Section 210, relating to defense access roads;

(14) Section 212, relating to the Inter-American Highway;

(15) Section 216, relating to the Darien Gap Highway;

(16) Section 218, relating to the Alaska Highway;

(17) Section 309, relating to foreign countries;

(18) Section 310, relating to civil defense;

(19) Section 311, relating to strategic highway improvements;

(20) Section 312, relating to military officers;

(21) Section 318, relating to highway relocation; and

(22) Section 320, relating to bridges on Federal dams.

SEC. 134. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 23, UNITED STATES CODE.—Title 23, United States Code, is amended as follows:

(1) Section 103 is amended as follows:

(A) Subsections (a), (b), (c), (d), and (g) are repealed.

(B) Paragraph (e)(1) is amended by striking "All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section.".

(C) Paragraph (e)(4)(B) is amended by striking the last two sentences and inserting instead "Each highway project constructed under this paragraph shall be subject to the provisions of this title applicable to highway projects constructed under the Surface Transportation Program."

(D) Paragraph (e)(4)(E)(i) is amended by striking "for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year" and by inserting in lieu thereof "until expended".

(E) Paragraphs (e)(4)(H)(i) and (e)(4)(H)(iii) are amended by striking "and 1991" the three places it appears and inserting instead "1991, 1992, 1993, 1994 and 1995".

(F) Subsection (f) is amended to read as follows: "(f) The Secretary shall have authority to approve in whole or in part the Interstate System, or to require modifications or revisions thereof."

(2) Section 104 is amended as follows:

(A) Subsection (b)(6) is repealed.

(B) Subsections (c) and (d) are repealed.

(3) Section 106 is amended as follows:

(A) Subsection (a) is amended by striking "117" and inserting instead "133".

(B) Subsection (b) is repealed.

(C) Subsection (d) is amended by striking "on any Federal-aid System".

(4) Section 109 is amended as follows:

(A) Subsection (a) is amended by striking "on any Federal-aid system".

(B) Subsection (c) is repealed.

(C) Subsection (i) is amended by striking "on a Federal-aid system" and "on any Federal-aid system"; and by striking "the Federal-aid system on which such project will be located".

(D) Paragraph (l)(1) is amended by striking "on any Federal-aid system".

(5) Section 112 is amended by striking subsection (f).

(6) Section 113 is amended—

(A) by striking "on the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System,";

(B) by striking "upon the Federal-aid systems,"; and

(C) by striking "on any of the Federal-aid systems".

(7) Section 114 is amended as follows:

(A) Subsection (a) is amended by (1) striking "located on a Federal-aid system" and inserting instead "constructed under this chapter" and (2) striking "117" and inserting "133".

(B) Paragraph (b)(3) is amended by striking "located on a Federal-aid system" and inserting instead "under this chapter".

(8) Section 115 is amended as follows:

(A) The title of subsection (a) is amended by striking "Urban, Secondary," and inserting instead "Surface Transportation Program,".

(B) Subparagraph (a)(1)(A)(i) is amended by striking "section 104(b)(2), section 104(b)(6)" and inserting instead "section 104(b)(1)".

(C) The title of subsection (b) is amended by striking "And Primary".

(D) Paragraph (b)(1) is amended (i) by striking "the Federal-aid primary system or"; (ii) by striking "104(b)(1) or"; and (iii) by striking ", as the case may be,".

(9) Section 116 is amended as follows:

(A) Subsection (a) is amended by striking "The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system."

(B) Subsection (b) is amended by striking "on the Federal-aid secondary system, or within a municipality," and inserting instead "within a county or municipality".

(10) Section 120 is amended as follows:

(A) Subsection (c) is amended by striking the last sentence.

(B) Subsection (f) is amended by striking "project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable on a project on such system as provided in subsections (a) and (c) of this section" and inserting instead "project on the Interstate System shall not exceed the Federal share payable on a project on that system as provided in subsection (c) of this section and any project off the Interstate System shall not exceed the Federal share payable as provided in subsection (a) of this section".

(C) Subsection (k) is amended by striking "for any Federal-aid system" and inserting instead "under section 104"; by striking ", and 155 of this title and for those priority primary routes under section 147"; and by striking "and for funds allocated under the provisions of section 155".

(D) Subsection (m) is repealed.

(11) Section 121(c) is amended by inserting "For projects obligated under section 106" in two places before the word "No"; and by striking "located on a Federal-aid system".

(12) Section 123 is amended by striking "on any Federal-aid system".

(13) Section 124 is amended by striking "of the Federal-aid systems" and inserting in lieu thereof "public roads or bridges except roads functionally classified as local or rural minor collector".

(14) Section 125 is amended as follows:

(A) Subsection (b) is amended (i) by striking "highways on the Federal-aid highway systems, including the Interstate System" and inserting instead "public roads except roads functionally classified as local or rural minor collector" and (ii) by striking "authorized on the Federal-aid highway systems, including the Interstate System" and inserting instead "authorized on public roads except roads functionally classified as local or as rural minor collector".

(B) Subsection (c) is amended by striking ", whether or not such highways, roads, or trails are on any of the Federal-aid highway systems".

(15) Section 130 is amended by striking subsections (a), (e), (f) and (h), and by renumbering the remaining sections accordingly.

(16) Section 139 is amended as follows:

(A) Subsection (a) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; and (iii) by striking "rehabilitating and reconstructing" and inserting instead "and rehabilitating".

(B) Subsection (b) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; (iii) by striking "rehabilitating and reconstructing" and inserting instead "and rehabilitating"; and (iv) by striking "section" in the last sentence and inserting instead "subsection".

(C) Subsection (c) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; and (iii) by striking "restoration, and reconstruction" and inserting instead "and restoration".

(17) Section 140 is amended as follows:

(A) Subsection (a) is amended by striking "on any of the Federal-aid systems,".

(B) Subsection (c) is amended by striking "104(a)" and inserting instead "104(b)".

(18) Section 141(b) is amended by striking "on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system" and inserting instead "on public roads except roads functionally classified as local or rural minor collector".

(19) Section 157 is amended as follows:

(A) Subsection (b) is amended (i) by striking "primary, secondary, Interstate, urban" and inserting instead "Interstate, Surface Transportation Program" and (ii) by striking the period at the end of the last sentence and inserting instead "and section 104(a) of the Surface Transportation Efficiency Act of 1991.". (B) Subsection (d) is amended by striking "154(f) or".

(20) Paragraph (a)(2) of section 158 is amended by striking "104(b)(2), 104(b)(5), and 104(b)(6)" and inserting instead "and 104(b)(5)".

(21) Section 215 is amended as follows:

(A) Clause (2) of subsection (c) is amended by inserting at the beginning "except as provided in section 129".

(B) Subsection (e) is repealed.

(C) Subsection (f) is amended by (1) striking "federal-aid primary highway" and inserting instead "Surface Transportation Program" and by (2) striking "and provisions limiting the expenditure of such funds to the Federal-aid systems".

(22) Section 217 is amended as follows:

(A) Subsection (a) is amended by striking ", (2) and (6)", and by striking "paragraphs" and inserting in lieu thereof "paragraph".

(B) Subsection (b) is amended by striking ", (2) and (6)", and by striking "paragraphs" and inserting in lieu thereof "paragraph".

(23) Section 302(b) is amended by striking ", for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof".

(24) Section 304 is amended by striking "the Federal-aid highway systems, including the Interstate System" and inserting instead "Federal-aid highways".

(25) Section 315 is amended by striking "sections 204(d), 205(a), 206(b), 207(b), and 208(c)" and inserting instead "section 205(a)".

(26) Section 317(d) is amended by striking "on a Federal-aid system" and inserting instead "with Federal aid".

(27) Subsection (d) of section 402 is amended (A) by striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and (B) by striking "and provisions limiting the expenditure of such funds to the Federal-aid system".

(28) Subsection (g) of section 408 is amended (A) by striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and (B) by striking "and provisions limiting the expenditure of such funds to Federal-aid systems".

(b) AMENDMENTS TO THE HIGHWAY SAFETY ACT OF 1978.—Subsection (i) of section 209 of the Highway Safety Act of 1978 is amended by (1) striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and by (2) striking "and provisions limiting the expenditure of such funds to the Federal-aid systems".

(c) AMENDMENTS TO THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—(1) Section 411 of the Surface Transportation Assistance Act of 1982 is amended as follows:

(A) Subsection (a) is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid primary system highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(B) Subsection (c) is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(C) Subsection (e) is amended by striking "Federal-aid Primary System highways" and "Primary System highways" and inserting instead in two places "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(2) Section 412(a) of the Surface Transportation Assistance Act of 1982 is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(3) Section 416 of the Surface Transportation Assistance Act of 1982 is amended as follows:

(A) Subsection (a) is amended by striking "Federal-aid highway" in two places and inserting instead "highway which was on a Federal-aid system on the date of the enactment of the Surface Transportation Efficiency Act of 1991"; and by striking "Federal-aid Primary System highway" and inserting instead "highway which was on the Federal-aid Primary System on the date of enactment of the Surface Transportation Efficiency Act of 1991".

(B) Subsection (d) is amended by striking "Federal-aid highway" and inserting instead "highway which was on a Federal-aid system on the date of the enactment of the Surface Transportation Efficiency Act of 1991".

(d) AMENDMENTS TO TITLE 42, UNITED STATES CODE.—Section 5122(8)(B) of title 42, United States Code, is amended by striking "any non-Federal-aid street, road or highway" and inserting instead "any street, road or highway not eligible for emergency relief under title 23, United States Code.".

(e) OPERATION LIFESAVER.—Whenever apportionments are made under section 104(a) of title 23, United States Code, the Secretary shall deduct such sums as the Secretary deems necessary, not to be less than $250,000 per fiscal year, for carrying out Operation Lifesaver.

(f) TECHNICAL CORRECTION TO PUBLIC LAW 101-516.—Section 333 of Public Law 101-516 is amended by—

(1) inserting the following after "SEC. 333.":

"Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"159. Revocation or suspension of the driver's license of individuals convicted of drug offenses.

"(a)(1)"; and

(2) by striking the second sentence of such section.

SEC. 135. RECODIFICATION.

The Secretary shall, by October 1, 1993, prepare a recodification of title 23, United States Code, related Acts and statutes and submit the recodification to the Congress for consideration.

SEC. 136. TIMBER BRIDGE AND TIMBER RESEARCH PROGRAM.

(a) The Secretary of Transportation is hereby authorized to establish a Timber Bridge Construction Discretionary Grant Program.

(1) Of the amount authorized per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 by section 103(b)(3) of the Surface Transportation Efficiency Act of 1991 (relating to the bridge program), $5,000,000 shall be available for obligation at the discretion of the Secretary for such program. The Federal share payable on any bridge construction project carried out under this section shall be 80 per centum of the cost of such construction.

(2) States may submit applications for construction grants in such form as required by the Secretary, who shall select and approve such grants based on the following criteria:

(A) bridge design shall have both initial and long term structural and environmental integrity;

(B) bridge design should utilize timber species native to the State or region;

(C) innovative design should be utilized that has the possibility of increasing knowledge, cost effectiveness, and future use of such design; and

(D) environmental practice for preservative treated timber should be utilized and construction techniques which comply with all environmental regulations.

(b) The Secretary of Transportation is hereby authorized to establish a Program of Research on Wood Use in Transportation Structures.

(1) Of the amount authorized per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 by section 103(b)(10) of the Surface Transportation Efficiency Act of 1991 (relating to Federal Highway Administration Research Programs), $1,000,000 shall be available for obligation at the discretion of the Secretary for such program. The Federal share payable on any research grant shall be 100 per centum.

(2) The Secretary of Transportation, through the Federal Highway Administra-

tion, may make grants to, or contract with States, other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity for research on any one of the following areas:

(A) timber bridge systems which involve development of new, economical bridge systems;

(B) development of engineering design criteria for structural wood products which improve methods for characterizing lumber design properties;

(C) preservative systems which demonstrate new alternatives, and current treatment processes and procedures optimized for environmental quality in the application, use and disposal of treated wood.

(D) alternative transportation system timber structures demonstrating the development of applications for railing, sign, and lighting supports, sound barriers, culverts, retaining walls in highway applications, docks, fresh and salt water marine facilities and railway bridges; and

(E) rehabilitation measures which demonstrate effective, safe, reliable methods for rehabilitating existing structures.

(3) The Secretary, through the Federal Highway Administration, shall assure that the information and technology resulting from research is transferred to State and local transportation departments and other interested parties.

SEC. 137. VISUAL POLLUTION CONTROL.

(a) Section 131 of title 23, United States Code, is amended as follows:

(1) In subsection (a) by striking "the primary system" and inserting in lieu thereof "those connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas as designated by the Secretary";

(2) In subsection (b)—

(A) by striking "the primary system" in two places and inserting in lieu thereof in each place "those connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas as designated by the Secretary";

(B) by striking "shall be reduced" and inserting in lieu thereof "may be reduced"; and

(C) by striking the words "equal to 10" in the second to last sentence, by inserting in lieu thereof "up to 5", and by striking the last sentence;

(3) In subsection (c)—

(A) by striking "the primary system" and inserting in lieu thereof "those connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas as designated by the Secretary";

(B) by striking "(c)" and inserting in lieu thereof "(c)(1)" and redesignating clauses 1 through 5 as clauses A through E; and

(C) by inserting at the end thereof the following new paragraphs—

"(2) As part of effective control, each State shall maintain an annual inventory of all outdoor advertising signs, displays, and devices required to be controlled pursuant to this section. Such inventory shall identify all such signs as either illegal, nonconforming, or conforming under State law.

"(3) As part of effective control, each State shall assure that signs, displays, and devices required to be removed by this section shall be removed within ninety days of (A) the date upon which they become unlawful or if not unlawful the date upon which they must be removed pursuant to State or local law, or (B), if eligible to receive cash compensation pursuant to this section or to be authorized, the date upon which cash compensation is paid, or the State or local amortization period ends.

"(4) As part of effective control, no State may allow or undertake any vegetation removal or other alteration of the highway right-of-way with the purpose of improving the visibility of any outdoor advertising sign, display, or device located outside the right-of-way.

"(5) As part of effective control, no State may permit any person to modify any outdoor advertising sign, display, or device which does not conform to subsection (c) or (d) of this section to improve its visibility or to prolong its useful life.".

(4) In subsection (d)—

(A) by striking "and primary systems" and inserting in lieu thereof "System and those connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas as designated by the Secretary";

(B) by striking "(d)" and inserting in lieu thereof "(d)(1)"; and

(C) by adding at the end the following:

"(2) After October 1, 1991, no new signs, displays or devices may be erected under the authority of this subsection. Any sign, display or device lawfully erected under State law after October 1, 1991, and prior to the effective date of this section shall be treated as nonconforming.";

(5) In subsection (e) by amending subsection (e) to read as follows'

"(e) The Secretary shall not require a State to remove any lawfully erected sign, display, or device, or device which does not conform to this section and is lawfully in existence on the date which this section becomes effective. Nothing in this subsection shall prevent a State from removing any sign, display, or device.";

(6) In subsection (f) by striking "the primary system" and inserting in lieu thereof "those connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas as designated by the Secretary";

(7) In subsection (g) by amending subsection (g) to read as follows:

"(g)(1) The Secretary may participate in the costs incurred by the State for the following:

"(A) physically removing signs, displays, or devices that are located in areas required to be effectively controlled by this section and are illegal under State law or that are required by this section to be removed and that were lawfully erected and have been lawfully maintained under State law.

"(B) acquiring signs, displays, or devices that are required by this section to be removed and that were lawfully erected and have been lawfully maintained under State law; and

"(2) Payments made to a State by the Secretary may be made for the removal or acquisition of signs, displays, or devices located in areas adjacent to connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas as designated by the Secretary and the Interstate System from funds apportioned to such State under sections 104(b)(1) and 104(b)(5) of this title. For the removal or acquisition of signs, displays, or devices, the Federal share of any costs participated in under this subsection shall not exceed that set forth in section 120(a) for those adjacent to connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas as designated by the Secretary and that set forth in section 120(c) for those adjacent to the Interstate System.

"(3) After September 30, 1991, a State may use to carry out this section in any fiscal year not to exceed 3 per centum of funds apportioned in such fiscal year to such State for the Federal-aid Interstate and the Surface Transportation Program.

"(4) A sign, display, or device acquired with funds made available pursuant to this section may be disposed of by sale or other means to a private party only if the State receives satisfactory written assurances that the material will not be used to construct or reconstruct any outdoor advertising sign, display, or device.";

(8) In subsection (h)—

(A) by striking "the primary system" and inserting in lieu thereof "those connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas as designated by the Secretary";

(B) by striking "(h)" and inserting in lieu thereof "(h)(1)"; and

(C) by adding at the end the following new paragraph:

"(2) No outdoor advertising sign, display, or device shall be permitted by any Federal agency on all public lands or reservations, excluding Indian lands and reservations, owned or controlled by the United States, unless such sign, display, or device conforms to regulations issued by the Federal agency with jurisdiction over, or responsibility for, such land. Such regulations shall be at least as stringent as the requirements of this section and the requirements of the State in which the land is located. The regulations required by this paragraph shall be developed in consultation with the Secretary of Transportation and shall be promulgated within twelve months of the date of enactment of the Surface Transportation Efficiency Act of 1991.";

(9) In subsection (i) by striking "for a highway project on that Federal-aid system to be served by such center or system" and inserting in lieu thereof "(c) for a center or system serving the Interstate System and section 120(a) for a center or system serving public roads off the Interstate System";

(10) In subsection (k)—

(A) by striking the words "Subject to compliance with subsection (g) of this section for the payments of just payments of just compensation, nothing" and inserting in place thereof the word "Nothing"; and

(B) by striking "on the Federal-aid highway systems";

(11) In subsection (m) by striking "Federal-aid primary highway" and inserting in lieu thereof "Surface Transportation Program";

(12) By repealing subsections (n) and (p).

(13) In subsection (f) by striking the period at the end of the first sentence and inserting in lieu thereof "giving priority for using these signs to local, non-franchised businesses.

(14) In subsection (f) by striking the period at the end of the second sentence and inserting in lieu thereof "giving priority for using these signs to local, non-franchised businesses."

(b) On a date no later than one year from the date of enactment of the Surface Trans-

portation Efficiency Act of 1991, the Department of Transportation shall promulgate uniform national regulations to implement this section.

(c) The amendments made by this section shall be effective upon the date of enactment of the Surface Transportation Efficiency Act of 1991: *Provided*, That any amendment which a State cannot implement without legislation shall be effective upon the date of enactment of the Surface Transportation Efficiency Act of 1991 or the end of the first regular legislative session in such State which is commenced after the date of enactment of this section, whichever is later.

SEC. 138. GROSS VEHICLE WEIGHT RESTRICTION.

(a) The fourth sentence of subsection 127(a) of title 23, is amended by adding after "thereof" the following: ", other than vehicles or combinations subject to subsection (d) of this section,"

(b) GROSS VEHICLE WEIGHT.—Section 127 of title 23, United States Code, is amended by adding a new subsection (d), to read as follows:

"(d)(1) A longer combination vehicle may continue to operate if and only if the Secretary of Transportation determines that the particular longer combination vehicle configuration was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual, continuing lawful operation on or before June 1, 1991, or pursuant to section 335 of Public Law 101-516. All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991. Nothing in this subsection shall prevent any State form further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of sections 2311, 2312, and 2316 of title 49, U.S.C. App. Any State further restricting or prohibition" the operations of longer combination vehicles shall, within 30 days, advise the Secretary of Transportation of such action and the Secretary shall publish a notice of such action in the Federal Register.

"(2) Within sixty days of the date of enactment of this Act, the Secretary shall publish in the Federal Register a complete list of those State statutes and regulations and of all limitations and conditions, including, but not limited to routing-specific configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection. No statute or regulation shall be included on the list published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual, continuing operation on or before June 1, 1991. Except as modified pursuant to the fourth sentence of paragraph (1) of this subsection, the list shall become final within a further 60 days after publication in the Federal Register. Longer combination vehicles may not operate on the National System of Interstate and Defense Highways except as provided in the list.

"(3) For purposes of this section, a longer combination vehicle is any combination of a truck tractor and two or more trailers or semi-trailers which operate on the National System of Interstate and Defense Highways at a gross vehicle weight greater than 80,000 pounds.".

SEC. 139. NATIONAL MAXIMUM SPEED LIMIT.

(a) Section 141 of title 23, United States Code, is amended by striking subsection (a).

(b) Section 154 of title 23, United States Code, is amended to read as follows:

"SEC. 154. NATIONAL MAXIMUM SPEED LIMIT.

"(a) SPEED LIMIT.—A State shall not have (1) a maximum speed limit on any public highway within its jurisdiction in excess of 55 miles per hour other than highways on the Interstate System located outside of an urbanized area, (2) a maximum speed limit on any highway within its jurisdiction on the Interstate System located outside of an urbanized area in excess of 65 miles per hour, (3) a maximum speed limit on any highway within its jurisdiction in excess of 65 miles per hour located outside of an urbanized area which is; (A) constructed to Interstate standards in accordance with section 109(b) and connected to an Interstate highway posted at 65 miles per hour; (B) a divided 4-lane fully controlled access highway designed or constructed to connect to an Interstate highway posted at 65 miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of 65 miles per hour; or (C) constructed to geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and designated by the secretary as part of the Interstate System in accordance with section 139(c) or (4) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using that portion of the highway, if on November 1, 1973, that portion of the highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of that vehicle including any load thereon. Clause (4) shall not apply to any portion of a highway, during the time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on that portion of a highway.

"(b) SPEED DATA.—Each State shall submit to the Secretary speed-related data as the Secretary determines by rule is necessary for each 12-month period ending on September 30. The data shall be collected in accordance with criteria to be established by the Secretary and shall include data on citations and travel speeds on public highways with speed limits posted at or above 55 miles per hour.

"(c) MOTOR VEHICLE DEFINED.—As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

"(d) CERTIFICATION.—Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with this section. The Secretary shall not approve any project under section 106 in any State which has failed to certify in accordance with this subsection. In preparing a certification under this subsection, the State shall consider the speed-related data it submits to the Secretary under subsection (b).".

PART B—NATIONAL RECREATIONAL TRAILS TRUST FUND ACT

SEC. 141. SHORT TITLE.

This Part may be cited as the "National Recreational Trails Trust Fund Act of 1991".

SEC. 142. CREATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "National Recreational Trails Trust Fund", consisting of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available for making expenditures to carry out the purposes of the National Recreational Trails Fund Act of 1991.".

(b) DEPOSIT OF UNREFUNDED HIGHWAY TRUST FUND MONEYS.— Section 9503(c) of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) is amended—

(1) by adding at the end thereof the following new paragraph:

"(6) TRANSFERS FROM THE TRUST FUND FOR NONHIGHWAY RECREATIONAL FUEL TAXES.—

"(A) TRANSFER TO NATIONAL RECREATIONAL TRAILS TRUST FUND.—The Secretary shall annually pay from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by the Secretary) equivalent to 0.3 per centum of total Highway Trust Fund receipts, as adjusted by the Secretary pursuant to subparagraph (B).

"(B) ADJUSTMENT OF PERCENTAGE.—

"(i) FIRST YEAR.—Within one year after the date of enactment of this Act, the Secretary shall, based on studies of nonhighway recreational fuel usage in the various States, adjust the percentage of receipts paid into the National Recreational Trails Trust Fund to correspond to the revenue received from nonhighway recreational fuel taxes.

"(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received from nonhighway recreational fuel taxes.

"(iii) AMOUNT OF ADJUSTMENT.—The amount of an adjustment in the percentage stated in clause (ii) shall be not more than 10 per centum of that percentage in effect at the time the adjustment is made.

"(iv) USE OF DATA.—The Secretary shall make use of data on off-highway recreational vehicle registrations and use in making adjustments under clauses (i) and (ii).

"(C) DEFINITIONS.—For the purposes of this paragraph—

"(i) NONHIGHWAY RECREATIONAL FUEL TAXES.—The term "nonhighway recreational fuel taxes" means the taxes under sections 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to fuel used as nonhighway recreational fuel.

"(ii) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" means—

"(I) fuel used in vehicles and equipment on recreational trails or back country terrain, including use in vehicles registered for high-

way use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain; and

"(II) fuel used in campstoves and other outdoor recreational equipment."; and (2) by striking paragraph (2)(C) and inserting the following:

"(C) EXCEPTION FOR USE IN AIRCRAFT AND MOTORBOATS, AND AS NONHIGHWAY RECREATIONAL FUEL.—This paragraph shall not apply to amounts estimated by the Secretary as attributable to—

"(i) use of gasoline and special fuels in motorboats or in aircraft, and

"(ii) use of gasoline as nonhighway recreational fuel as defined in paragraph (6)(C)(ii).".

(c) CONFORMING AMENDMENT.—Section 6421(e)(2) of the Internal Revenue Code of 1986 (defining off-highway business use) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR USE AS NONHIGHWAY RECREATIONAL FUEL.—The term "off-highway business use" does not include any use as nonhighway recreational fuel as defined in section 9503(c)(6)(C)(ii).".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund.".

SEC. 143. NATIONAL RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—The Secretary, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing for and maintaining recreational trails.

(b) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is three years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (d).

(2) PERMANENT PROVISION.—On and after the date that is three years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if—

(A) a recreational trail advisory board on which both motorized and non-motorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing for and maintaining recreational trails; and

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this Act as provided in subsection (d).

(c) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 per centum of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this Act;

(B) paying expenses of the National Recreational Trails Advisory Committee; and

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this Act.

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 per centum of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 per centum of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(d) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this Act for—

(A) in an amount not exceeding 7 per centum of the amount of moneys received by the State, administrative costs of the State;

(B) in an amount not exceeding 5 per centum of the amount of moneys received by the State, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as necessary and required by a State Comprehensive Outdoor Recreation Plan construction of new trails on Federal lands, where such construction is approved by the administering agency of the State, and the Federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the Federal agency with all other applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1600, et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701, et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this Act for—

(A) condemnation of any kind of interest in property;

(B) construction of any recreational trail for motorized use on or through any lands inventoried in the first Roadless Area Review and Evaluation, or pursuant to section 603(A) of the Federal Land Management Policy Act, unless such construction is permitted pursuant to a forest and resource management plan; or

(C) upgrading, expanding or otherwise facilitating motorized use or access to trails predominantly used by non-motorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this Act as grants to private individuals, organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of section 143(b)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (7)(B), not less than 30 per centum of the moneys received annually by a State under this Act shall be reserved for uses relating to motorized recreation, and not less than 30 per centum of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this Act in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (f)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain in effect until such time as a State has allocated not less than 40 per centum of moneys received under this Act in the aforementioned manner.

(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of section 143(b)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than one per centum of all such fuel use in the United States, shall be exempted from the requirements of paragraphs (4) and (5)(A)(ii) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) RETURN OF MONEYS NOT EXPENDED.—(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within four years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (c).

(B) If approved by the State recreational trails advisory board satisfying the requirements of section 143(b)(2)(A), moneys paid to a State may be exempted from the requirements of paragraph (4) and expended or committed to projects otherwise stated in this subsection for a period not to exceed beyond 4 years after receipt, after which any remaining monies not expended or dedicated shall be returned to the Fund and shall

thereafter be reallocated under the formula stated in subsection (c).

(e) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreational trail pursuant to this Act is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (d). Nothing in this Act diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (b).

[2] FUND.—The term "Fund" means the National Recreational Trails Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6)(C)(ii) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, and vehicular travel by motorcycle, four-wheel drive or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not, at the option of the State, include motorized conveyances used by persons with disabilities, such as wheelchairs.

SEC. 144. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be 10 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) Hiking,

(B) Cross country skiing,

(C) Off-highway motorcycling,

(D) Snowmobiling,

(E) Horseback riding,

(F) All terrain vehicle riding,

(G) Bicycling,

(H) Four-wheel driving;

(2) an appropriate government official, including any official of State or local government, designated by the Secretary; and

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations.

(c) CHAIR.—The Chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least 5 of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of 3 years, except that the members filling five of the ten positions shall be initially appointed for terms of 2 years, with subsequent appointments to those positions extending for terms of 3 years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trailside and trail-head facilities that qualify for funding under this Act; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this Act.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBURSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 143(c)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this Act, and contains recommendations for changes in Federal policy to advance the purposes of this Act.

PART C—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

SEC. 151. SHORT TITLE.

This Part may be cited as the "Intelligent Vehicle-Highway Systems Act of 1991".

SEC. 152. PURPOSE AND SCOPE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation (hereinafter referred to in this title as the "Secretary") shall conduct a program to promote and facilitate the implementation of Intelligent Vehicle-Highway Systems as a component of the Nation's surface transportation systems. The goals of such program shall include, but not be limited to—

(1) the widespread implementation of Intelligent Vehicle-Highway Systems to enhance the capacity, efficiency, and safety of the Federal-aid highway system, including as an alternative to additional physical capacity of that system;

(2) the enhancement, through more efficient use of the Federal-aid highway system, of the efforts of the several States to attain air quality goals, as established by the Administrator of the Environmental Protection Agency pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), as amended by Public Law 101-549 (104 t. 2399);

(3) the enhancement of safe and efficient operation of the Nation's highway systems;

(4) the development and promotion of Intelligent Vehicle-Highway Systems and an Intelligent Vehicle-Highway Systems industry in the United States, utilizing authority provided under section 307 of title 23, United States Code;

(5) the reduction of societal, economic, and environmental costs associated with traffic congestion; and

(6) the enhancement of United States industrial and economic competitiveness and productivity, by improving the free flow of people and commerce, and by establishing a significant United States presence in an emerging field of technology.

(b) COORDINATION.—The Secretary shall lead and coordinate an Intelligent Vehicle-Highway Systems program and shall foster its use as a key component of the Nation's surface transportation systems. As appropriate, the Secretary shall consult with the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other interested Federal departments and agencies, in carrying out the purposes of this title. The Secretary shall strive to transfer Federally owned or patented technology to State and local governments and to the United States private sector. As appropriate, the Secretary shall maximize the involvement of the United States private sector, colleges and universities, and State and local governments in aspects of such programs, including design, conduct (including operations and maintenance), evaluation, and financial or in-kind participation.

(c) STANDARDS.—The Secretary shall develop and implement standards and protocols to promote the widespread use and evaluation of Intelligent Vehicle-Highway Systems technology as a component of the Nation's surface transportation systems. To the extent practicable, such standards and protocols shall promote compatibility among Intelligent Vehicle-Highway Systems technologies implemented throughout the several States. The Secretary is authorized to make use of existing standards-setting organizations as the Secretary determines appropriate.

(d) EVALUATION.—The Secretary shall establish guidelines and requirements for the evaluation of field and related operational tests carried out pursuant to section 155 of this Act.

(e) INFORMAITON CLEARINGHOUSE.—The Secretary shall establish a repository for technical and safety data collected as a result of Federally sponsored projects pursuant to this title, and shall make such information readily available, upon request, at an appropriate cost to all users, except for proprietary information and data. In carrying out the requirements of this subsection, the Secretary may delegate this responsibility, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation. For the purposes of carrying out the requirements of this subsection, such entity would be eligible for Federal aid, as specified in this title.

SEC. 153. ADVISORY COMMITTEE.

The Secretary is authorized to utilize one or more advisory committees in carrying out his responsibilities under this title. Any advisory committee so utilized shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and funding provided for any such committee shall be available from monies appropriated for advisory committees as

specified in relevant appropriations Acts, and from funds allocated for research, development, and implementation activities in connection with the Intelligent Vehicle-Highway Systems program under this title.
Sec. 154. Strategic Plan, Implementation, and Report to Congress.

(a) STRATEGIC PLAN.—

(1) STRATEGIC PLAN.—Not later than 12 months following the date of the enactment into law of this title, the Secretary shall formulate, and submit to Congress, a strategic plan for the Intelligent Vehicle-Highway Systems program under this title.

(2) SCOPE OF STRATEGIC PLAN.—In preparing such plan, the Secretary shall—

(A) specify the goals, objectives, milestones of such program and how specific projects relate to these, including consideration of the 5-, 10-, and 20-year timeframes for specified goals and objectives;

(B) detail the status and challenges and non-technical constraints facing the program;

(C) chart a course of action necessary to achieve the program's goals and objectives;

(D) provide for the development of standards and protocols to promote and ensure compatibility in the implementation of Intelligent Vehicle-Highway Systems technologies; and

(E) provide for the accelerated use of advanced technology to reduce traffic congestion along heavily populated and traveled corridors.

(b) IMPLEMENTATION REPORTS.—

(1) IMPLEMENTATION REPORTS.—Not later than 24 months after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Congress a report on the implementation of the strategic plan required in subsection (a) of this section.

(2) SCOPE OF IMPLEMENTATION REPORTS.—In preparing such report, the Secretary shall—

(A) analyze the possible and actual accomplishments of Intelligent Vehicle-Highway Systems projects in achieving congestion, safety, environmental, and energy conservation goals, as described in this title;

(B) specify cost-sharing arrangements made, including the scope and nature of Federal investment, in any research, development, or implementation project under such program;

(C) assess non-technical problems and constraints identified as a result of each such implementation project; and

(D) include, if appropriate, any recommendations for legislation or modification to the strategic plan required in subsection (a) of this section.

(c) REPORT TO CONGRESS.—

(1) REPORT TO CONGRESS.—In cooperation with the Attorney General and the Secretary of Commerce, the Secretary shall prepare and submit, within 24 months following the date of enactment of this title, a report to Congress addressing the non-technical constraints and barriers to all aspects of the innovation of such program under this title.

(2) SCOPE OF REPORT TO CONGRESS.—In preparing such report, the Secretary shall—

(A) address antitrust, privacy, educational and staffing needs, patent, liability, standards and other constraints, barriers, or concerns relating to such program;

(B) recommend legislation and other administrative action necessary to further the Intelligent Vehicle-Highway Systems program under this title; and

(C) address ways to further promote industry and State and local government involvement in such program.

(3) UPDATE OF REPORT.—Within 5 years following such date of enactment, the Secretary shall prepare an update of such report.

SEC. 155. TECHNICAL, PLANNING, AND PROJECT ASSISTANCE.

(a) TECHNICAL ASSISTANCE AND INFORMATION.—The Secretary is authorized to provide planning and technical assistance and information to State and local governments seeking to use and evaluate Intelligent Vehicle-Highway Systems technologies. In doing so, the Secretary shall assist State and local officials in developing provisions for implementing areawide traffic management control centers, necessary laws to advance such systems, the infrastructure for such existing and evolving systems, and other necessary activities to carry out the Intelligent Vehicle-Highway Systems program under this title.

(b) PLANNING GRANTS.—Subject to the availability of funds, the Secretary is authorized to make grants for feasibility and planning studies to be conducted by State and local governments. Such grants shall be made at such time, in such amounts, and subject to such conditions as the Secretary may determine.

(c) TRAFFIC MANAGEMENT SYSTEMS.—Any interagency traffic and incident management entity, including independent public authorities or agencies, contracted to a State department of transportation for the implementation of traffic management systems of designated corridors, is eligible to receive Federal transportation funds under this title through the appropriate State department of transportation.

(d) FUNDING OF PROJECTS.—In deciding which projects or operational tests relating to Intelligent Vehicle-Highway Systems to fund utilizing authority provided under section 307 of title 23, United States Code, the Secretary shall—

(1) give the highest priority to those projects that would contribute to the national goals and objectives specified in the Intelligent Vehicle-Highway Systems strategic plan required pursuant to section 154 of this title, minimize the relative percentage of Federal contributions to total project costs, but not including Federal-aid funds;

(2) seek to fund operational tests that advance the current State of knowledge and, where appropriate, build on successes achieved in previously funded work involving such programs; and

(3) require that operational tests utilizing Federal funds pursuant to this Act have a written evaluation of the IVHS technologies investigated and key outcomes of the investigation, consistent with the guidelines developed pursuant to section 152(d) of this Act.

(e) AUTHORITY TO USE FUNDS.—Each State and eligible local entity is authorized to use funds provided under this Act for implementation purposes in connection with the Intelligent Vehicle-Highway Systems program.

SEC. 156. APPLICATIONS OF TECHNOLOGY.

(a) CONGESTED CORRIDORS PROGRAM.—The Secretary shall designate transportation corridors in which application of Intelligent Vehicle-Highway Systems will have particular benefit and, through financial and technical assistance, shall assist in the implementation of such systems. In designating such corridors, the Secretary shall focus on automatic vehicle identification, electronic toll collection, highway advisory radio, variable message signage, advanced traveler information systems, and other steps that would reduce congestion, enhance safety, and promote a smoother flow of traffic throughout the corridors.

(b) PRIORITIES.—In designating and providing funding for such corridors, the Secretary shall allocate not less than 50 per centum of the funds appropriated pursuant to this section to eligible State or local entities for application in not less than 3 but not more than 10 corridors with the following characteristics:

(1) traffic density (as a measurement of vehicle miles traveled per road mile) at least 1.5 times the national average;

(2) severe or extreme nonattainment for ozone, as determined by the Administrator of the Environmental Protection Agency pursuant to the Clean Air Act, as amended by Public Law 101-549 (104 t.2399);

(3) a variety of types of transportation facilities, such as highways, bridges, tunnels, toll and non-toll;

(4) inability to significantly expand existing surface transportation facilities;

(5) a significant mix of passenger, public transportation, and commercial motor carrier traffic;

(6) complexity of traffic patterns; and

(7) potential contribution to the implementation of the Secretary's strategic plan developed pursuant to section 154 of this title.

(c) ADDITIONAL FUNDING.—The balance of funds provided under this section shall be allocated to eligible State or local entities for application in corridors with a significant number of the characteristics listed in subsection (a) of this section.

SEC. 157. AUTHORIZATIONS.

(a) CONGESTED CORRIDORS PROGRAM.—For the congested corridors program under section 156, within funds authorized to be deducted pursuant to section 104(a) of title 23, United States Code, there is authorized to be appropriated $150,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(b) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated under this Act shall remain available until expended.

(c) RESERVATION OF FUNDS.—Of the funds provided pursuant to subsection (a) of this section, not less than 5 per centum shall be reserved for innovative, high-risk operational or analytical tests that do not attract substantial non-Federal commitments but are determined by the Secretary as having significant potential to help accomplish long-term goals established by the strategic plan prepared pursuant to section 154 of this Act.

(d) FEDERAL SHARE PAYABLE.—The Federal share payable on account of activities authorized pursuant to this title shall not exceed 80 per centum of the cost. The Secretary may waive this restriction for projects undertaken pursuant to subsection (c) of this section.

SEC. 158. DEFINITIONS.

For the purposes of this part, the term—

(a) "Intelligent Vehicle-Highway Systems" means the development or application of electronics, communications, or information processing, including, but not limited to, advanced traffic management systems, advanced traveler information systems, and advanced vehicle communications systems, used singly or in combination to improve the efficiency and safety of surface transportation systems; and

(b) "corridor" means any major transportation route which includes some contribution of closely parallel limited access highways, major arterials, or transit lines; and, with regard to traffic incident management, it may also refer to more distant transportation routes that can serve as viable op-

tions to each other in the event of traffic incidents.

By Mr. PELL (by request):

S. 1206. A bill to amend the International Security and Development Cooperation Act of 1985 to authorize appropriations for fiscal years 1992 and 1993 for the U.S. Commission for the Preservation of America's Heritage Abroad for carrying out that act; to the Committee on Foreign Relations.

U.S. COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD AUTHORIZATION

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the International Security and Development Cooperation Act of 1985 to authorize appropriations for fiscal years 1992 and 1993 for the U.S. Commission for the Preservation of America's Heritage Abroad for carrying out that act.

This proposed legislation has been requested by the U.S. Commission for the Preservation of America's Heritage Abroad, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the sectional analysis and the letter from the Executive Director of the U.S. Commission for the Preservation of America's Heritage Abroad, which was received on April 30, 1991.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 1206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission for the Preservation of America's Heritage Abroad Authorization Act of 1992."

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. Section 1303 of the International Security and Development Act of 1985 (16 U.S.C. 469j) is amended to add the following:

"SEC. 1303 (i) There are authorized to be appropriated to carry out the purposes of this Section $50,000 for fiscal year 1992 and such sums as may be necessary for fiscal year 1993 consistent with the Budget Enforcement Act of 1990 (Public Law 101-508)."

SECTIONAL ANALYSIS

Section 1. This section authorizes appropriations of funds to CPAHA for its administrative expenses including the negotiation of bilateral agreements with the governments of European countries for the protection of certain cultural sites, and for the compilation of lists of landmarks which are associated with the foreign heritage of American citizens and which are in danger of deterioration or destruction because of crimes against humanity during World War II.

U.S. COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD,

Potomac, MD, April 25, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am submitting with this letter proposed legislation amending the International Security and Development Act of 1985 to authorize appropriations for the United States Commission for the Preservation of America's Heritage Abroad to carry out its responsibilities as specified in that Act.

The bill provides for authorization of appropriations for the Commission's operation during fiscal years 1992 and 1993. A Sectional Analysis explaining the proposed legislation is enclosed. This legislative proposal is needed to carry out the President's FY 1992 budget.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Respectfully,

JOEL L. BARRIES,
Executive Director.•

By Mr. DANFORTH (for himself, Mr. JEFFORDS, Mr. SPECTER, Mr. RUDMAN, Mr. CHAFEE, Mr. COHEN, Mr. DURENBERGER, Mr. HATFIELD, and Mr. DOMENICI):

S. 1207. A bill to strengthen and improve Federal civil rights laws, and for other purposes; to the Committee on Labor and Human Resources.

S. 1208. A bill to amend the Civil Rights Act of 1964 to clarify provisions regarding disparate impact actions, and for other purposes; to the Committee on Labor and Human Resources.

S. 1209. A bill to provide for damages in cases of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS AND EMPLOYMENT DISCRIMINATION

Mr. DANFORTH. Mr. President, I will momentarily send to the desk for introduction three bills dealing with the issue of civil rights and employment discrimination. These three bills are cosponsored by nine Senators so far, and it is possible that before the close of business today other Senators will be added. The nine Senators including myself are Senators JEFFORDS, SPECTER, RUDMAN, CHAFEE, COHEN, DURENBERGER, HATFIELD, and DOMENICI.

Mr. President, for the past 2 years the most contentious issue we have had before the Congress has had to do with the possibility of overruling through legislation some five or six opinions of the U.S. Supreme Court on the question of employment discrimination. Last year, along with Senator JEFFORDS and Senator SPECTER, I was involved in attempting to mediate the differences between the civil rights community on one hand and the White House on the other hand to try to reach some reasonable consensus.

We came very close last year to accomplishing that objective. Twice, the President of the United States asked Senator JEFFORDS and Senator SPECTER and I to come to the White House to visit with him on the subject of civil rights. Twice, the President in the Oval Office looked us in the eye and told us that he wanted us to try to work out a compromise. There was absolutely no question in my mind last year, and there is absolutely no question in my mind this year, that President Bush wants Congress to pass civil rights legislation which he could sign.

The issue has become enormously divisive, seemingly more divisive with every passing day. But it is important to recognize that there truly is a common ground between the advocates of civil rights legislation in the House of Representatives and the Bush administration.

As Attorney General Thornburgh said just a few days ago, there was agreement on about 80 percent of the issues. What the nine Senators who are involved in this enterprise are attempting to do is to try to build on that common ground and develop a legislative package which has some chance of becoming law.

The President has sent to Congress his legislative ideas. I compliment him for that. But I believe there is virtually no chance that the President's legislation will be enacted into law in its present form.

The House of Representatives is about to pass its version of the civil rights bill. I believe that no matter how well meaning they are in the House of Representatives, there is almost no chance that that bill which passes the House will be enacted into law in its present form.

So the question, remains, how can we move forward? How can we come together with a reasonable accommodation that can become law? The nine Senators who are about to introduce this legislation have taken the point of view that instead of one indigestible lump, which was the problem last year, one major bill trying to encompass a number of different subjects, it would be better to attempt to break that indigestible lump into three more digestible pieces, so we have developed a package of three bills.

The first bill we believe to be almost entirely without controversy and a bill that can be enacted into law, we think, in very short order. It is a bill which would overrule five Supreme Court decisions. Those five Supreme Court decisions are decisions which most people believe should be overruled. This is not the stuff of the controversy that has been raging in the press and on television for the last number of weeks. This truly is a consensus package of proposals for overruling Supreme Court decisions which could be agreed on in very short order.

The second proposal deals with the more knotty issue of defining business necessity and overruling the Wards Cove case decision by the Supreme Court in 1989.

We believe that we have kept the middle ground in dealing with Wards Cove. We provide that the definition of selection practices is a manifest relationship to requirements for effective job performance. Then we say that in the case of nonselection practices, the practices must bear a manifest relationship to a legitimate business objective.

We further say that the plaintiffs in these cases must specify the objectionable practice. It is not enough to lump everything together in an indiscriminate mold. One of the concerns that the business community has had is that it is impossible to prepare a defense if there is no specificity in the complaint that is filed by the plaintiffs.

So specificity is required and we believe that in the definition of business necessity we have come up with a middle course definition, I am sure a definition that will be criticized from both left and right. But it is a reasonable effort to hit the middle.

The third bill has to do with damages. This too has been a very, very contentious issue. Right now in the case of intentional discrimination against a black person, under the law, the black person who has been discriminated against intentionally can recover not only for compensation for lost wages but also for pain and suffering without any limitation at all, and for punitive damages without any limitation at all.

Some organizations, particularly some women's groups, take the position that they should get exactly what the blacks have. However, under current law, while women and the disabled, people who are discriminated against for religious reasons, can get reinstated in the job and can get back pay, they are not entitled under present law to anything by way of pain and suffering or to anything by way of punitive damages. In other words, we have a situation under current law where blacks can get potentially an infinite recovery—women, the disabled, religious minorities can get zero.

It is our view, in this legislation, that somewhere between infinity and nothing there should be room for compromise.

So we have proposed that in the case of pain and suffering and in the case of punitive damages which in this legislation we call equitable penalty, there be caps, and that the caps be differentiated according to the size of the business—that a small employer have a lower cap than a large employer. So the caps in our legislation are $150,000 for an employer of over 100 for pain and suffering, same amount for equitable penalties; and $50,000 for an employer of 100 or less.

Furthermore, we have a provision by which the judge imposes the equitable penalty. We believe that this also adds a degree of certainty as far as the employer is concerned so that there is not the possibility of skyrocketing liability.

Mr. President, the theory in these three bills is very simple. The theory is that while there has been seemingly endless controversy in Congress and in Washington on the question of civil rights, there really is a broad consensus among the American people. I believe that the consensus is that people should be hired on the basis of ability, on the basis of their competence to do the job, and not on the basis of race, or religion, or disability, or anything else.

I think that the overwhelming majority of the people of this country think that discrimination is wrong, that discrimination should be prohibited as a matter of law, that people should not be discriminated against on the basis of their race or on the basis of any other matter of ethnicity or religion or disability.

That is what we attempt to do in this legislation. We attempt to make it possible for people who have been wronged to right this situation in court. We also attempt to make it possible for employers to defend themselves without the necessity of having to resort to quotas.

With respect to damages, we attempt to provide for fair remedies. But fair remedies to us do not include the possibility of hitting the jackpot, of striking gold in the court system.

Clearly, the ability of people to have wrongs redressed does not mean that their recovery should be totally quirky. It does not mean that they should be able to get anything that a clever lawyer could persuade the jury to award them. There should be some control on the amount of recovery.

That, then, is what we have attempted to do in these three bills. We have attempted to find what I am convinced is a national consensus for fairness. We have attempted to split the difference between the contending parties. We have attempted to put together something that is responsible and that we believe can become law.

Mr. President, I hope we will have an opportunity to pass this legislation. I want to again say that people who have been involved in this issue for a long period of time have, in my opinion, been involved for the best of motives, have been very concerned, particularly in recent weeks when there has been a lot of controversy relating to the motives of various people on both sides. I have no doubt whatever that people on both sides genuinely want to accomplish what is fair. They want to end discrimination; they want to correct mistakes that were made by the Supreme Court a couple of years ago. They want to do so without quotas.

I am absolutely convinced that the President of the United States wants to pass a civil rights law. And we hope to help him do just that.

So, Mr. President, I now send to the desk three bills for introduction and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Restoration Act of 1991".

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that legislation is necessary to provide additional protections against unlawful discrimination in employment.

(b) PURPOSE.—The purpose of this Act is to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination.

SEC. 3. PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end the following new subsections:

"(b) For purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contracts.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.".

SEC. 4. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end the following new subsection:

"(k) Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended—

(1) by designating the first through third sentences as paragraph (1);

(2) by designating the fourth sentence as paragraph (2)(A); and

(3) by adding at the end the following new subparagraph;

"(B) In a case where an individual proves a violation under section 703(k) and a respondent demonstrates that the respondent would have taken the same action in the absence of any discrimination, the court—

"(i) may grant declaratory relief, injunctive relief (except as provided in clause (ii)), attorney's fees, and costs; and

"(ii) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment, described in subparagraph (A).".

SEC. 5. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2) (as amended by section 4 of this Act) is further amended by adding at the end the following new subsection:

"(l)(1)(A) Notwithstanding any other provision of law, and except as provided in paragraph (3), an employment practice that implements and is within the scope of a litigated or consent judgment or order that—

"(i) was entered earlier than the date of the enactment of this subsection; and

"(ii) resolves a claim of employment discrimination under the Constitution or Federal civil rights laws,

may not be challenged under the circumstances described in subparagraph (B).

"(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws—

"(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had—

"(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

(II) a reasonable opportunity to present objections to such judgment or order; or

"(ii) by a person whose interests were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order.

"(2)(A) Notwithstanding any other provision of law, and except as provided in paragraph (3), an employment practice that implements and is within the scope of a litigated or consent judgment or order that—

"(i) was entered not earlier than the date of the enactment of this subsection; and

"(ii) resolves a claim of employment discrimination under the Constitution or Federal civil rights laws,

may not be challenged under the circumstances described in subparagraph (B).

"(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws—

"(i) by a person who, during the period of notice regarding the judgment or order described in subparagraph (A)—

"(I) was an employee of, former employee of, or applicant to, the respondent; and

"(II) prior to the entry of such judgment or order, had actual notice of the proposed judgment or order in sufficient detail to apprise such person—

"(aa) that such judgment or order might adversely affect the interests and legal rights of such person;

"(bb) of any numerical relief in the proposed judgment or order on the basis of race, color, religion, sex, or national origin for any job, position, or other employment opportunity;

"(cc) that an opportunity was available to present objections to such judgment or order by a future date certain; and

"(dd) that such person would likely be barred from challenging the proposed judgment or order after such date; or

"(ii) by a person whose interests were adequately and competently represented by a similarly situated person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

"(3) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which the parties intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the Constitution.

"(4) Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) or (2) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 6. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity or head of a Federal entity subject to section 717.".

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(e)) is amended—

(1) by inserting "(1)" before "A charge under this section"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of this section, an alleged unlawful employment practice occurs—

"(A) when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system or provision of the system; and

"(B) if the system is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. AUTHORIZING AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)) is amended by inserting "(including expert fees)" after "attorney's fee".

SEC. 9. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) is amended—

(1) in subsection (c), by striking "thirty days" and inserting "90 days"; and

(2) in subsection (d), in inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties.".

SEC. 10. NOTICE OF LIMITATIONS PERIOD UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

Section 7(e)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)(2)) is amended to read as follows:

"(2) If a charge filed with the Commission is dismissed or the proceedings of the Commission are otherwise terminated by the Commission, the Commission shall notify the individual referred to in subsection (d). The individual may bring an action against the respondent named in the charge not earlier than 60 days after the date on which the charge was timely filed and not later than 90 days after the date of the receipt of the notice.".

SEC. 11. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to section 1977 of the Revised Statutes (42 U.S.C. 1981), this Act, and the amendments made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Senate Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) Exercise of rulemaking power.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employ-

ment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act of 1967 (42 U.S.C. 621 et seq.), section 1977 of the Revised Statutes, this Act, and the amendments made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, section 1977 of the Revised Statutes, this Act, and the amendments made by this Act, shall, subject to paragraphs (2) and (5), apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section instrumentalities of the Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) or section 15 of the Age Discrimination in Employment Act of 1967 (42 U.S.C. 633a).

SEC. 12. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

SEC. 13. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect upon enactment.

(b) CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—The amendments made by section 5 shall apply to all proceedings pending on or commenced after June 12, 1989.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the applicaton of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected.

S. 1208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Employment Opportunity Act of 1991".

SEC. 2. FINDING AND PURPOSES.

(a) FINDING.— Congress finds that the decision of the Supreme Court in *Wards Cove Packing Co.* v. *Atonio*, 109 S. Ct. 2115 (1989) has weakened the scope and effectiveness of Federal civil rights protections.

(b) PURPOSES.—The purposes of this Act are—

(1) to overrule the treatment of business necessity as a defense in *Wards Cove Packing Co.*, v. *Atonio* and to codify the meaning of business necessity used in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971); and

(2) to provide statutory authority and guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

SEC. 3. BURDEN OF PROOF IN DISPARATE IMPACT CASES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2) is amended by adding at the end the following new subsection:

"(k)(1)(A) An unlawful employment practice based on disparate impact is established under this title only if—

"(i) a complaining party demonstrates that a particular employment practice or group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin; and

"(ii)(I) the respondent fails to demonstrate that the practice or group of practices is required by business necessity; or

"(II) the complaining party makes the demonstration described in subparagraph (C) with respect to a different employment practice or group of employment practices.

"(B)(i) With respect to an unlawful employment practice based on disparate impact as described in subsection (A), the complaining party shall identify with particularity each employment practice that is responsible in whole or in significant part for the disparate impact, except that if the complaining party can demonstrate to the court, after discovery, that the elements of a respondent's decisionmaking process are not capable of separation for analysis, the group of employment practices as a whole may be analyzed as one employment practice.

"(ii) If the elements of a decisionmaking process are capable of separation for analysis, the complaining party must identify each element with particularity, and the respondent must demonstrate that the element or elements identified that are responsible in whole or in significant part for the disparate impact are required by business necessity. If the respondent demonstrates that a specific employment practice within a group of employment practices is not responsible in whole or in significant part for the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

"(C) An employment practice or group of employment practices responsible in whole or in significant part for a disparate impact that is demonstrated to be required by business necessity shall be lawful unless the complaining party demonstrates that a different employment practice or group of employment practices, which would have less disparate impact and make a difference in the disparate impact that is more than merely negligible, would serve the respondents as well.

"(2) In deciding whether a respondent has met the standards described in paragraph (1) for business necessity, the court may receive evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to the evidence as is appropriate.

"(3) A demonstration that an employment practice or group of employment practices is required by business necessity may be used as a defense only against a claim under this subsection.

"(4) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in schedules I and II of section 102)(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of rule, color, religion, sex, or national origin.

"(5) The mere existence of a statistical imbalance in the work force of an employer on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

"(b) CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall be construed to overrule any existing case concerning whether recovery is available under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) under a comparable worth theory.

SEC. 4. PROHIBITION AGAINST THE DISCRIMINATORY USE OF TEST SCORES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2) (as amended by section 3) is further amended by adding at the end the following new subsection:

"(l)(1) It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment-related tests on the basis of race, color, religion, sex, or national origin.

"(2) Paragraph (1) shall not apply to a respondent seeking to comply with a court order aimed at remedying past discrimination."

SEC. 5. DEFINITIONS.

(a) IN GENERAL.—Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of particular employment practices in which each practice is responsible in whole or in significant part for an employment decision.

"(o) The term 'required by business necessity' means—

"(1) in the case of employment practices involving selection, that the practice or group of paractices bears a manifest relationship to requirements for effective job performance; and

"(2) in the case of other employment decisions not involving employment selection practices as described in paragraph (1), the practice or group of practices bears a manifest relationship to a legitimate business objective of the employer.

"(p) The term 'requirements for effective job performance' includes—

"(1) the ability to perform competently the actual work activities lawfully required by the employer for an employment position; and

"(2) any other lawful requirement that is important to the performance of the job, including, but not limited to, factors such as punctuality, attendance, a willingness to avoid engaging in misconduct or insubordination, not having a work history demonstrating unreasonable job turnover, and not engaging in conduct or activity that improperly interferes with the performance of work by others.

"(q) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity or head of a Federal entity subject to section 717."

(b) INTERPRETATION.—It is the intent of Congress in enacting sections 701(o) and 703(k) of the Civil Rights Act of 1964 (as added by subsection (a) of this section and subsection (a) of section (3) respectively) that the sections codify the meaning of business necessity used in *Griggs v. Duke Power Co.*, 401 U.S.C. 424 (1971) and overrule the treatment of business necessity as a defense in *Wards Cove Packing Co. v. Atonio*, 109 S. Ct. 2115 (1989), with respect to an employment practice or group of employment practices.

SEC. 6. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the amendments made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction. of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the amendments made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under title VII of the Civil Rights Act of 1964 and the amendments made by this Act shall, subject to paragraphs (2) and (5), apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Congressional Budget Office, the General Accounting Office, and the Office of Technology Assessment.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000c–16).

SEC. 7. CONSTRUCTION.

(a) IN GENERAL.—Except as provided in subsection (b)—

(1) nothing in this Act or the amendments made by this Act shall be construed to limit an employer in establishing job requirements that are otherwise lawful under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); and

(2) nothing in title VII of the Civil Rights Act of 1964 or this Act shall be construed—

(A) to require or encourage an employer to adopt hiring or promotion quotas; or

(B) to prevent an employer from hiring the most effective individual for a job.

(b) REMEDIES, VOLUNTARY ACTIONS, AND AGREEMENTS.—Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, voluntary employer actions for work force diversity, or affirmative action or conciliation agreements, that are otherwise in accordance with the law.

S.1209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights and Remedies Act of 1991".

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace.

(b) PURPOSE.—The purpose of this Act is to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace.

SEC. 3. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION IN EMPLOYMENT.

The Revised Statutes are amended by inserting after section 1977 the following new section:

"SEC. 1977A. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION IN EMPLOYMENT.

"(a) RIGHT OF RECOVERY.—

"(1) CIVIL RIGHTS.—In an action brought by a complaining party under section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(e)) against a respondent who intentionally engaged in an unlawful employment practice prohibited under section 703 of the Act (42 U.S.C. 2000e–2) and engaged in the practice on the basis of the religion, sex, or national origin of an individual, the complaining party—

"(A) may recover the compensatory damages described in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent; and

"(B) may request that a court impose the equitable civil penalty described in subsection

(c) against the respondent.

"(2) DISABILITY.—In an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (as provided in section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a))) against a respondent who intentionally engaged in a practice that constitutes discrimination under section 102 of the Act (42 U.S.C. 12112), other than discrimination described in paragraph (3)(A) or (6) of subsection (b) of the section, against an individual, the complaining party—

"(A) may recover the compensatory damages described in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent; and

"(B) may request that a court impose the equitable civil penalty described in subsection (c) against the respondent.

"(3) NOTICE.—A complaining party who requests that a court impose an equitable civil penalty under subsection (c) shall provide notice of the request to the Chairman of the Equal Employment Opportunity Commission and the Secretary of Health and Human Services.

"(b) COMPENSATORY DAMAGES.—

"(1) DETERMINATION.—A complaining party may recover compensatory damages under subsection (a) if it is determined that the complaining party had demonstrated the existence of injury requiring compensation by clear and convincing evidence.

"(2) EXCLUSIONS.—Compensatory damages awarded under this section shall not include back pay, interest on back pay, or any other type of relief authorized under section 706(g) of the Civil Rights Act of 1964.

"(3) LIMITATIONS.—The amount of compensatory damages awarded under this section against a respondent who is not a government, government agency, or political subdivision, for emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses shall not exceed—

"(A) in the case of a respondent who has more than 100 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $150,000; and

"(B) in the case of a respondent not described in subparagraph (A), $50,000.

"(4) PREJUDGMENT INTEREST.—The court described in paragraph (1) shall not award prejudgment interest to a complaining party on compensatory damages awarded under this section in an action in which the aggrieved individual is an employee or applicant for employment described in section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(a)).

"(c) EQUITABLE PENALTY.—

"(1) DETERMINATION.—

"(A) IN GENERAL—A court shall impose an equitable civil penalty on a respondent under subsection (a) if the court finds that—

"(i) the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual; and

"(ii) the penalty is necessary to deter that respondent from engaging in such a discriminatory practice or such discriminatory practices in the future.

"(B) AMOUNT.—The court shall impose an equitable civil penalty sufficient to deter the respondent from engaging in such a discriminatory practice or discriminatory practices in the future.

"(2) EQUITABLE CONSIDERATIONS.—In making the finding described in paragraph (1)(A), a court may consider—

"(A) the nature of the discriminatory practice or practices that are the subjects of the action described in subsection (a);

"(B) the efforts of the respondent to instruct the managers, supervisors, and employees of the respondent about legal requirements regarding employment discrimination;

"(C) the nature of compliance programs, if any, established by the respondent to ensure that discriminatory practices do not occur in the workplace;

"(D) any lawful affirmative action undertaken by the respondent with respect to the group injured by the discriminatory practice or practices are the subject of the action described in subsection (a);

"(E) the availability to the aggrieved individual of an internal grievance procedure or remediation policy established by the respondent;

"(F) whether the respondent made a prompt investigation of the discriminatory practice or discriminatory practices;

"(G) the efforts of the respondent to correct the discriminatory practice or practices; and

"(H) the size of the respondent and the effect of the equitable civil penalty on the economic viability of the respondent.

"(3) LIMITATIONS.—The amount of an equitable civil penalty imposed under subsection (a) shall not exceed—

"(A) in the case of a respondent who has more than 100 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $150,000; and

"(B) in the case of a respondent not described in subparagraph (A), $50,000.

"(4) RECOVERY OF COSTS.—

"(A) AWARD OF FEES.—If a court imposes an equitable civil penalty in a case brought under this section, the court shall award reasonable attorney's and expert witness fees incurred by the complaining party in seeking the penalty.

"(B) RELATIONSHIP TO PENALTY.—The court shall not subtract the amount of the fees described in subparagraph (A) from the amount of the equitable civil penalty imposed against a respondent under this section.

"(5) APPLICATION OF PROCEEDS OF PENALTY.—

"(A) CORRECTION OF DISCRIMINATORY PRACTICES.—If a court determines, in the discretion of the court, that an equitable civil penalty imposed under this section is needed to correct discriminatory practices at the place of employment, or in the community, in which the discriminatory practice described in subsection (a) occurred, the penalty shall be expended all or in part, as directed by the court, to correct the discriminatory practices. The penalty may be expended to undertake actions such as public awareness or education programs regarding discrimination on the basis of race, color, religion, sex, or national origin, in order to eliminate future discrimination.

"(B) TRUST FUND.—

"(i) FULL PAYMENT.—If a court does not make the determination described in subparagraph (A), the penalty shall be deposited in the Equal Employment Enforcement Trust Fund, established in section 9511 of the Internal Revenue Code of 1986.

"(ii) PAYMENT IN PART.—If a court directs that part of the penalty shall be expended as described in subparagraph (A), the remainder of the penalty shall be deposited in the Fund.

"(C) DETERMINATION.—In making the determination described in subparagraph (A), the court may consider—

"(i) antidiscrimination and antiharassment policies and procedures established by the respondent, prior to the practice that is the subject of the action described in subsection (a), to ensure that discriminatory practices would not occur;

"(ii) corrective actions taken by the respondent on becoming aware of a claim that a discriminatory practice had occurred; and

"(iii) policies and procedures established by the respondent after the claim to ensure that discriminatory practices do not occur again.

"(d) JURY TRIAL.—

"(1) IN GENERAL.—If a complaining party seeks compensatory damages under this section, any party may demand a trial by jury.

"(2) DETERMINATIONS.—If a party requests a trial by jury in an action brought under this section—

"(A) the jury shall determine all factual issues related to liability; and

"(B) if the determination described in subsection (b)(1) is made—

"(i) the jury shall determine the amount of compensatory damages awarded to the complaining party; and

"(ii) the court shall not inform the jury of the limitations described in subsection (b)(3).

"(e) DEFINITION.—As used in this section:

"(1) AGGRIEVED INDIVIDUAL.—The term 'aggrieved individual' means a person who has been subjected to a discriminatory practice.

"(2) COMPLAINING PARTY.—The term 'complaining party' means—

"(A) in the case of a person seeking to bring an action under subsection (a)(1), a person who may bring an action or proceeding under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

"(B) in the case of a person seeking to bring an action under subsection (a)(2), a person who may bring an action or proceeding under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(3) DISCRIMINATORY PRACTICE.—The term 'discriminatory practice'' means a practice described in paragraph (1) or (2) of subsection (a).".

SEC. 4. EQUAL EMPLOYMENT ENFORCEMENT TRUST FUND.

(a) ESTABLISHMENT.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end of the following new section:

SEC. 9511. EQUAL EMPLOYMENT ENFORCEMENT TRUST FUND.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a fund to be known as the Equal Employment Enforcement Trust Fund (referred to in this section as the 'Fund'), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by section 3 of the Civil Rights and Remedies Act of 1991.

"(c) EXPENDITURES.—

"(1) PURPOSES.—

"(A) CIVIL RIGHTS ENFORCEMENT.—Fifty percent of the amounts in the Fund shall be available, to the extent provided in appropriation Acts, for the purposes of making expenditures to carry out section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5).

"(B) FAMILY VIOLENCE PROTECTION.—Fifty percent of the amounts in the Fund shall be available, to the extent provided in appropriation Acts, for the purposes of making expenditures to carry out section 303 of the Family Violence Prevention and Services Act (42 U.S.C. 10402).

"(2) PAYMENTS BASED ON ESTIMATES.—Payments under paragraph (1) shall be made on the basis of estimates by the Secretary of the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.".

(b) CONFORMING AMENDMENT.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended in the table of sections by adding at the end the following new item:

"Sec. 951. Equal Employment Enforcement Trust Fund.".

SEC. 5. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the amendment made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under the amendment made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under the amendment made by this Act, shall, subject to paragraph (2), apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

SEC. 6. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be effected.

Mr. DURENBERGER. Mr. President, I am pleased to join my distinguished colleagues, Senators DANFORTH, RUDMAN, JEFFORDS, COHEN, CHAFEE, and HATFIELD, in today introducing a rational civil rights alternative. It is my belief that this bill will pave the way toward a meaningful resolution of the civil rights impasse that the Congress, the administration, business and civil rights groups thus far have been unable to resolve.

The legislation we are introducing consists of three distinct bills: The Civil Rights Restoration Act of 1991, the Equal Employment Opportunity Act of 1991, and the Civil Rights and Remedies Act of 1991.

The first of these three bills, the Civil Rights Restoration Act of 1991, incorporates all of the noncontroversial sections from last year's civil rights bill, and the second and third bills, the Equal Employment Opportunity Act of 1991, and the Civil Rights and Remedies Act of 1991, deal with employment practices that disproportionately affect women and minorities, and damages that are available in employment discrimination law suits, respectively.

By separating the noncontroversial issues contained in the first bill from those issues in the second and third bills, Congress may address immediately the injustices that have resulted from the Supreme Court's misinterpretation of U.S. civil rights law. At the same time, Congress is provided with the opportunity to act carefully to avoid quotas and runaway employment litigation, which are issues of great concern to all of us.

Mr. President, this Nation's civil rights laws are the means to ensure fair employment opportunities for all Americans. In Minnesota, we are keenly aware of the need for fair opportunity. In the past 10 years, Minnesota experienced a 4.9 percent increase in its white population, but a roughly 78 percent increase in black population, 42 percent increase in American Indian population, and 193 percent increase in the Asian American population.

The minority members of the Minnesota community deserves a fair chance at obtaining employment and entering the American economic mainstream. These three bills will help to provide that opportunity for members of those groups.

Mr. President, I have a long history of strongly supporting civil rights. In addition to being a principal sponsor of the Americans With Disabilities Act last year, I have authored the Economic Equity Act and have cosponsored the Equal Rights Amendment. Moreover, in previous years, I voted in favor of legislation that prevented recipients of Federal funds from discriminating on the basis of race, gender, religion, or national origin, and favored legislation that promoted equal access to voting. Based upon this record, there can be no doubt that I am an ardent and zealous champion of civil rights.

Accordingly, I encourage my colleagues to support our initiative, because it will provide immediate relief on the federal level for victims of discrimination.

The Civil Rights Restoration Act of 1991 overturns the Supreme Court's 1989 Patterson versus McLean Credit Union and Lorance versus AT&T decisions. All interested parties, including the administration, civil rights groups and business groups, agree that these two cases incorrectly narrowed the protections available to minorities.

In Minnesota, our legislature passed legislation immediately after Patterson and Lorance that created a State remedy to address these Supreme Court decisions. By separating the civil rights initiative into separate legislation, the U.S. Congress will be following Minnesota's example of dealing with the Patterson and Lorance prob-

lems head on to provide meaningful relief to those now denied a necessary employment discrimination remedy.

In addition, the Equal Employment Opportunity Act of 1991, and the Civil Rights and Remedies Act of 1991, broaden the ability of civil rights' plaintiffs to challenge employment actions and obtain appropriate relief, without promoting employment quotas. I am deeply concerned that Congress avoid encouraging employers to hire or promote applicants simply based upon an individual's skin color, gender, national origin or religion.

Accordingly, our bill overturns the Supreme Court's Wards Cove Packing versus Antonio decision, which placed additional and unfair burdens on plaintiffs challenging employment practices that disproportionately excluded minorities and women. At the same time, our bill requires plaintiffs to identify the specific employment practice or practices that cause the adverse impact on minorities, rather than allowing plaintiffs to sue based simply upon the employer having fewer minority employees than one would expect based upon the local population.

The Democratic alternative that is soon to be considered in the House of Representatives does not require plaintiffs to identify these specific employment practices and potentially requires employers to defend all of their employment practices without requiring a plaintiff to demonstrate that the practices caused an adverse impact. To allow such suits would encourage employers to "hire by the numbers" in order to avoid liability—and that is a quota. Especially when coupled with unlimited compensatory and punitive damages, I find that alternative unacceptable.

Mr. President, one of the reasons that I am cosponsoring these measures is because I believe that the bill supported by the administration fails to provide adequate remedies to victims of discrimination. For instance, the administration allows a jury to determine the damages for workplace racial harassment claims, but the Bush administration bill fails to provide the same jury trials for workplace sexual harassment claims. That is simply unfair.

The administration bill also lacks flexibility. Under the President's plan, employers of all sizes would be subject to potential liability of $150,000, even though many smaller employers would be bankrupted by such a large court award, and many large employers could afford that amount without great difficulty.

In contrast, the Civil Rights and Remedies Act of 1991 allows for juries to determine compensatory damages—for pain and suffering—subject to a cap of $50,000 for small employers and $150,000 for large employers. Following the Minnesota model, this initiative also provides for a civil equitable penalty, assessed by the court rather than by a jury, subject to the same $50,000/$150,000 cap.

Uniquely, our legislation encourages courts to require employers that have committed unfair employment practices to spend the civil penalty on race, gender, religion and/or national origin awareness and education programs for the employer's work force and/or in the surrounding community.

After consulting with numerous Minnesota business and civil rights groups, I endorse this use of penalties. Personally, I am convinced that it is ignorance that leads to prejudice, and therefore, the most socially useful expenditure of these penalties will be for such educational awareness programs.

Mr. President, I believe these bills provide adequate remedies for victims of discrimination without raising the specter of runaway jury awards. In my view, this is the best possible solution to the civil rights impasse between the administration, business groups, civil rights groups and Congress.

I urge my colleagues to shed partisanship and give serious consideration to the carefully crafted bills we have introduced today.

Mr. CHAFEE. Madam President, I am pleased to join with a number of my Republican colleagues in introducing a legislative package on civil rights. In one sense, it is with mixed feelings that I do so. I would have preferred to see a compromise reached last year. I certainly would have preferred avoiding the rancor and bitterness of the debate on civil rights that took place. But as no compromise has yet been reached and none seems to be in view, and since the parties appear to be irrevocably divided, we have joined in this undertaking.

In another sense, I join my colleagues with a real stirring of hope. By introducing a measure that falls somewhere in the middle of the competing proposals offered this year, we hope to move debate out of the realm of politics and sound bites, and into the realm of substance. Perhaps if that can be accomplished, we can get on with the matter at hand: Passing a good, fair bill that will afford civil rights protections to all Americans in the workplace.

Before I go further, I would like to state that I believe there are good faith efforts to get a bill. I commend President Bush for his support of civil rights legislation over the years. Indeed, as a Congressman from Texas, he supported civil rights legislation when it was far from popular to do so. I believe that the President indeed does want a civil rights bill, and I am hopeful we can obtain his support for the package of bills we are introducing.

Likewise, I hope that all parties who want a bill and are involved in this debate will give this package positive consideration.

I wish to state also, Madam President, that I like the company I am keeping. Sometimes in legislation one is associated with those for whom one really has a lot of respect, and that is my situation today. I respect the leader of our group in this effort, Senator DANFORTH, and I have equal respect for Senators HATFIELD, JEFFORDS, DOMENICI, SPECTER, RUDMAN, COHEN, and DURENBERGER. All of these Senators are good individuals, and all share a strong commitment to civil rights guarantees. Our effort today stems from this commitment. We want a good fair bill.

Madam President, it has been 2 years since the Supreme Court handed down a series of employment discrimination rulings that established far more stringent requirements than had previously existed in discrimination suits. The decisions had a serious and adverse impact on the ability of persons to fight against discrimination in the workplace. At worst, the Court took a 180-degree turn from what we in Congress over the years have tried to do. At best they took an unnecessarily severe interpretation of our intent. In my mind, these rulings need our attention. We wrote the statutes that the Court interpreted. We must be sure the rights guaranteed by those statutes remain intact.

As I see it, the great majority of Americans flatly oppose discrimination. I do not think there is any argument over that. One of the vital principles held by Americans is that no distinction should be drawn between persons solely because of some artificial factor—such as color, wealth, religion, background or nationality. If there is one concept that is part of the core of what it means to be an American, it is that each individual deserves to be treated fairly and equitably, regardless of who they are or what they look like.

Discrimination runs absolutely counter to that view. Hence, Americans have long supported civil rights protections, protections that truly belong to each and every one of us simply by virtue of our citizenship, and that sadly, are still necessary today. I think we all acknowledge that discrimination still exists, albeit often in a far more subtle and insidious form than in the past. Thus, it is important to keep the tools that are needed to fight discrimination at hand and available.

That is what this effort is about: Making sure these tools are available. To many, the issues regarding "business necessity" or "particularity," and the fights these issues cause, seem dry and detailed and overly fussy. Frankly, in some ways I agree. I think too much fierce debate has stemmed from one word or one phrase. Yet these esoteric terms are the tools I mentioned earlier, those that are needed to combat dis-

crimination. And thus they are important.

What exactly is in our three-bill package? First and foremost, we have chosen to separate out certain of the Supreme Court decisions from the others. One thing revealed during the 1990 legislative battle is that there is in fact general agreement on legislative solutions for some of the cases. Yet during last year's debate those sections of general agreement—on Patterson, Wilks, Lorance, and Price Waterhouse—were unfairly held hostage to the more controversial measures. The first bill, therefore, contains these areas of agreement. It seems to us it is important to do as much as we can right, while continuing to work on the remaining provisions. The sooner those sections become law, the better for workers who are victims of discrimination.

The second bill addresses disparate impact suits as tested by the Wards Cove case. This section clearly was the most controversial part of last year's bill, and is the main provision that invited accusations of quotas. Our legislation builds upon the conference report language of last year. It also builds upon the language discussed by the business and civil rights groups. We believe we have drafted the language in such a way as to avoid the quota problem. This is not a quota bill.

The third bill concerns the extension of compensatory and punitive damages for women, persons with disabilities, and others covered under title VII of the 1964 Civil Rights Act, who now have no recourse to anything more than back pay, attorneys' fees, injunctive relief, or reinstatement. One of the most difficult pieces of this puzzle was how to deal with the issue of damages. Damages do serve an important and useful purpose. They provide compensation to those who are injured, and they provide a strong deterrent against wrongdoing. However, there are many—and I admit I am one—who are concerned about the increasingly litigious nature of our society.

The question is how to ensure both that victims are compensated and that a deterrent value is kept alive, while at the same time preventing a limitless expansion of the system that, overall, is costing us very dearly. Thus, we have worked to craft a damages section that will make certain victims of discrimination are compensated for the real costs incurred as a result of the discrimination. However, we also believe there should be some limit on how much businesses may be fined for such activity, and that the fine itself should go toward fixing—either via the Employment Opportunities Commission or via the workplace itself—the real and harmful problem for which it was awarded.

So as I stated earlier, this is a compromise effort, the purpose of which is to move forward and gain some ground in the area of civil rights. The bill on damages may not be perfect. However, we are not going to gain any ground unless there are limits on the damages. That is clear from last year's debate, and it is clear from what we have seen this year.

Just a word about quotas. I do not doubt there will be those who will attempt to characterize this legislative package, as a proplaintiff quota bill, although I firmly believe that it will not lead to hiring by quota. On the other side of the ledger, there will be those who will characterize this bill as probusiness. I do not think it is pro either.

This package is meant to clarify and to restore civil rights as fairly as possible. It may not be everything. In fact, I suspect every single one of us, the cosponsors, has some concerns with different sections of this package. But we have concluded that we must present something to this body, and something reasonable, if we are to break out of the logjam that currently exists, move forward, and have a bill enacted into law. I might even venture that if this bill pleases no one, we may be on the right track.

My colleagues and I have spent the last 18 months, a year and a half, in an effort to pass a civil rights bill, one that may be signed into law. It has been a long process which has frustrated nearly everybody involved. Last year, we spent a lot of time and went nowhere. The President was not happy; the Senate was not happy; and the House was not happy. That process ended up being a futile effort—no legislation was approved. We believe that this package of bills is a good start. I hope that each of my colleagues in the Senate—from the Democratic or the Republican side—will give it their careful attention and consideration.

I hope cool heads will prevail. Certainly, there is room for discussion on each of these issues. But paramount to having an effective discussion is to first end the bitter debate that has consumed this body for month after month. I hope this is a major step in that direction.

I wish to thank the Chair. I particularly want to thank the distinguished Senator from South Carolina for his permitting me to proceed.

By Mr. PELL:

S. 1210. A bill to amend the Immigration and Nationality Act to provide for the deportation of aliens who are convicted of felony drunk driving; to the Committee on the Judiciary.

DEPORTING NON-U.S. RESIDENT DRUNK DRIVERS

• Mr. PELL. Mr. President, I am today introducing legislation that would allow for the deportation of resident aliens convicted of felony drunk driving. Specifically, my bill would allow for deportation of a non-U.S. citizen convicted of operating a motor vehicle while under the influence of alcohol or illegal drugs, in connection with a fatal crash or a crash in which serious bodily injury has been inflicted upon an innocent party.

Under current law, an alien residing in this country can be deported if he or she commits a crime involving "moral turpitude." Court decisions over the years have established that crimes such as murder, rape, assault, robbery and drug possession are crimes that demonstrate moral turpitude and are grounds for deportation.

However, a non-U.S. resident who gets behind the wheel of a motor vehicle after abusing alcohol or drugs and kills or injures an innocent victim, cannot be deported. Under current law, getting drunk and then killing someone with your car is not considered a sufficient enough demonstration of moral turpitude to warrant deportation.

Mr. President, drunk driving is not a simple traffic offense and should not be treated that way. Since the early 1980's, when I introduced the first in a series of laws forcing a crack-down on drunk drivers, there has been a wholesale change in the way society views drunk driving. I believe it is time for our deportation laws to reflect this fundamental change. An assault or killing committed by a drunk driver should be considered as grounds for deportation.

This legislation may seem draconian to some. Our country has always opened its arms to all people and it is a very serious step to deport someone from our shores. That is why my bill follows current deportation law and gives a presiding judge in a felony case involving an alien the power to recommend against deportation. My bill also specifically states that an alien cannot be deported if this action would subject the alien to persecution on account of race, religion or political opinion. I believe these safeguards will adequately protect aliens from the misapplication of this proposed law.

However, I realize that there may be a need to further modify this bill to accommodate the concerns of my colleagues and I am open to comments, suggestions or improvements.

In 1980, over half of all traffic fatalities in this country were alcohol related. In 1987—the last year statistics were available—this figure showed some decrease. The number of drunk driving fatalities is still much too high and it is up to Congress to look for new ways to deter drunk drivers. My bill will make a small contribution to accomplishing this goal because it will force a very specific group of drivers to think twice before drinking and driving.

Mr. President, the idea for this legislation was suggested to me by a group of people that has had more to do with

curbing drunk driving than all the Senators and Congressmen on Capitol Hill. Mothers Against Drunk Driving [MADD] recently marked its 10th anniversary and what this group has accomplished in the past 10 years is remarkable. Quite simply, in one short decade, MADD has changed the way we think about drunk driving and managed to save thousands of lives in the process.

It was MADD that told me about a recent drunk driving case in Florida, convincing me there was a need for my bill. The case involved a man who was living in Florida as an alien. He was convicted of drunk driving after causing an accident in which a 73-year-old woman received serious stomach wounds, a crushed pelvis, a punctured lung, and broken ribs. This was the third drunk driving conviction for this man. I share MADD's view that someone with a record such as this should be deported.

Unfortunately, the law does not allow us to deport a drunk driver who kills or injures someone. My bill would change that.

Mr. President, I ask that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(21) has been convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

(b) Section 241 of that Act is amended by adding at the end thereof the following:

"(h) Subsection (a)(21) shall not apply to any alien described in section 243(h).".●

By Mr. GRAHAM:

S. 1211. A bill to amend title XIX of the Social Security Act to permit the States the option of providing medical assistance to individuals with a family income not exceeding 300 percent of the income official poverty line with appropriate cost-sharing, and for other purposes; to the Committee on Finance.

S. 1212. A bill to amend title XVIII of the Social Security Act to provide coverage for certain preventive care items and services under part B and to provide a discount in premiums under such part for certain individuals certified as maintaining a healthy lifestyle; to the Committee on Finance.

S. 1213. A bill to amend title IX of the Public Health Service Act to require the Director of the Centers for Disease Control to acquire and evaluate data concerning preventative health and health promotion, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH LEGISLATION

Mr. GRAHAM. Mr. President, I rise for the purpose of introducing three health reform bills. The Nation has recently had an opportunity to see how our health care system can operate. When President Bush fell ill, he received the most comprehensive state-of-the-art health care available. He saw expensive physicians, underwent extensive tests. The health care system performed for him. But, Mr. President, if the President of the United States had been one of the 31 to 36 million individuals in this Nation without health insurance, he could have ended up in the emergency room for care, if he received any care at all.

The uninsured are a growing segment of the U.S. population. In 1987 the national medical expenditure survey found that 47.8 million people lacked insurance for all or a part of 1987; 34 to 36 million were uninsured on any given day; 24.5 million were uninsured throughout the entire year.

The following statistics are also from that same NME study. Nearly one in four children, children younger than the age of 18, were uninsured during all or part of the year. Given the need for early intervention and prevention in this critical population, this figure is particularly disturbing. Of non-Hispanic whites 18.6 percent were uninsured; 29.8 percent of black Americans, and 41.4 percent of Hispanic Americans were uninsured for all or part of the year.

According to the General Accounting Office, my State, the State of Florida, with 2.2 million uninsured, 21 percent of our State's population, ranks third in the United States in the number of uninsured persons.

Our health care system is in crisis, Mr. President. There are at least five reasons why this crisis exists.

Although health care coverage is not the only factor in determining health status, it is a key factor in improved health. Medical indigence is associated with lack of care and poor health status.

Two, the entire health care system suffers from being required to provide some care for the uninsured who cannot pay. The uninsured disproportionately seek care in hospital emergency rooms. For example, Jackson Memorial Hospital, the only public hospital in Dade County, Miami, FL, provided $204 million in uncompensated care charges for fiscal year 1990–91.

Health care costs are constantly escalating. According to HHS statistics, national health care spending increased 128 percent from 1980 to 1989 to $604 billion at the end of the last decade.

Employers are struggling to contain the cost of providing employee benefits, and the number of employers who offer benefits or enriched packages is rapidly declining.

Caring for the uninsured in the manner we do has financial and social costs as a fourth part of the health care crisis.

By receiving mostly emergency room care, the uninsured must forego primary care, hardly a cost effective use of funds. Through public programs and private insurance premiums we all pay these costs.

The uninsured pass their behavior patterns and societal inequities down to their families. There are other social costs as well. The inability to move from employment, to have mobility within the work force, is often due to fear of losing insurance coverage, such as the loss of coverage because of pre-existing conditions.

There is a built-in disincentive from leaving the welfare system because of the potential that has for losing Medicaid eligibility. As America ages, due to the economically devastating long-term care cost, unfortunately, Mr. President, the fact is that if you live long enough, there is a high possibility you will die medically indigent.

The last issue of the health care crisis is a philosophical one. Can your society continue to have a two-tiered health care system? Can we claim our system is the best in the world when so many have so little or no access.

Mr. President, I want to consider some of the components of our health care system in an attempt to evaluate this crisis. How has Medicaid fared? The Federal-State program providing medical assistance for those of low income in 1991 has covered about 27.3 million persons.

Due to Medicaid's categorical approach to eligibility, certain needy groups, primarily low-income men and childless couples, do not qualify for coverage.

In the late 1980's, cost containment efforts led to program freezes and reductions in eligibility and in provider payments.

Although Aid to Families for Dependent Children recipients represent about 75 percent of the Medicaid population of over 27 million Americans, 75 percent of Medicaid costs are for the care of the aged, blind, disabled, mostly for nursing home care.

Well, how is the workplace doing, Mr. President? United States employer-based insurance is the primary means of health care coverage. Sixty-six percent of the population—141 million workers—received such coverage according to the 1988 census. In 1988 the General Accounting Office found that

80 percent of the uninsured were either workers or dependents of workers.

Mr. President, I want to underscore that statistic: 80 percent of the uninsured Americans were either workers or dependents of workers.

Small businesses have little ability to spread risk over large numbers of employees, which increases their premiums. Small business insurance coverage then is subject to more exclusions based on health status.

Let us look at a third issue. How well have our preventative efforts worked? In 1985, less than 1 percent of the Federal Government's health care budget was targeted at prevention, at maintaining a high state of wellness.

The term "health care system" is in fact a misnomer. We have a crisis intervention system, with little attention to the maintenance and enhancement of individual Americans.

Philosophically, the Federal Government's involvement has been limited to intervention after major illness: sickness care, kidney dialysis, rather than hypertension medication. Economically, the Federal Government has focused resources on acute care despite the higher costs associated with such care.

Mr. President, the administration estimates that Medicare will spend $116.7 billion during fiscal year 1992 for the health care services for 33 million Americans. But it only will cover mammograms, pap smears, and certain immunizations for treatment purposes. That is the extend to which a $116 billion health care program orients itself toward maintaining a high level of health among older Americans.

The Public Health Service has recently put forth a document, "Healthy People 2000; National Health Promotion and Disease Prevention Objectives." This survey contains a national strategy for preventing major chronic illnesses, injuries, and infectious disease, reiterating that we can no longer afford not to invest in prevention.

There are examples, Mr. President, of where our system is working. I would just like to mention a few with which I am personally familiar in my own State.

In Dade County, FL, a mobile van unit, Medivan, offers primary care to elderly persons living in Dade County and Broward County. These are persons largely unserved, indigent, living in rural or inner-city areas; 2.3 million people in my State receive Medicare benefits, a system neither means tested nor workplace based.

In Dundee, FL, the research program runs a national renowned longitudinal study of 2,500 persons over the age of 65 who undergo yearly free physical exams and counseling. Florida Medicaid is operating four school-based health insurance programs under a demonstration which provides services for previously uninsured children and requires participants to cost share for services from 130 to 185 percent of the poverty level.

Mr. President, how do we hope to build on the existing system's strength and improve its weaknesses? Today I am introducing three health care reform bills based on access, cost, prevention, and research. These bills are not a panacea. They do, however, present a starting point for what we all anticipate will be a national debate commencing soon in this Congress on the future of American health care.

I know that the current occupant of the chair, both from his experience as Governor of the State of Nebraska, and now as a Member of the U.S. Senate, will be a major participant in that debate.

The first of the three bills that I am introducing today is the Medicaid Glide Slope Act of 1991. This bill would allow States to optionally increase Medicaid coverage for all individuals up to the age of 65 to a level to be determined by the State.

Mr. President, this chart summarizes the basic approach of the Medicare glide slope bill. It builds upon the existing Medicaid Program, whatever that program happens to be in an individual State. Then it allows a State, at the State's option, to provide for a glide slope, or actually a stairstep of Medicaid services, between the current extent of Medicaid eligibility and 200 percent above the poverty level. As the indivdual's income increases, their share of the cost of this program would commensurately increase. And between 200 percent of poverty and 300 percent of poverty, there will be the provision allowing individuals to pay in the full cost and gain the benefits of Medicaid health benefits.

This would allow States to establish a Medicaid sliding scale based on income for all individuals wishing to buy coverage and cost share up to 200 percent of the poverty level, and allows States to permit individuals up to 65 and small businesses to buy Medicaid coverage at 100 percent of the average per person cost, up to a percent of the poverty level.

It does not include in the calculation of those average costs the costs incurred for custodial care in the premiums, as these services tend to be the costliest and the least used by the population which would be eligible to participate in this program. It limits what an individual or family would be required to pay to participate to no more than 10 percent of that family's income.

How would the bill work? Let us assume that a State chooses to allow a Medicaid buy-in from 150 to 200 percent of poverty under the Florida Medicaid Program. For example, the average per person cost, minus the custodial nursing home coverage is, in 1989 dollars, $2,944.

With the poverty level of a family of 3 at 130 percent of the poverty level, which in Florida in 1989 would have been $13,368, the family would have paid in premiums of 30 percent of $2,934, or $1,764. However, because of the 10 percent maximum, that family would be able to purchase full Medicaid coverage for a family of 3 for $1,336.

This bill would reduce the disincentive for those who risk losing Medcaid coverage. By accepting income in excess of current Medicaid income limits, it would eliminate the cliff effect where eligibility ends by phasing in coverage with individual financial participation.

It utilizes an existing in-place delivery system. It allows participants to contribute to the program and offsets some of the costs to the State and Federal Government. It allows States to decouple eligibility levels from the current categorical requirements. As the Presiding Officer knows, today, in order to be eligible for Medicaid, one must generally have first been eligible for some other form of welfare, such as AFDC, aid to families with dependent children. This decoupling would facilitate the administration of the overall Medicaid Program.

This would save States money on the front end, as indigent persons could receive medical care from the primary care physician, not requiring the current excessive use of emergency room care. It would allow States flexibility to increase Medicaid coverage according to that individual State's needs and aspirations.

Mr. President, I am introducing a second bill, which would increase Medicaid preventative care coverage. An optional Medicaid immunization health exam, screening benefit, this would provide covered services for such things as physical exams, certain laboratory and screening provisions, counseling services, and other services for high-risk individuals, and immunizations.

This would be an elective program, Mr. President. The beneficiaries who elected to receive this coverage would pay a premium of $5.10 per month. There would be no copayment or deductible.

The bill follows the well-known U.S. Preventive Services task force guidelines on covered services for the elderly. In determining the premium level, it utilized the 1990 study for the Actuary Research Corp., which estimated the cost to provide the above preventative services under Medicaid.

What are the goals of this second measure, Mr. President? As the American population ages, older Americans can increase the healthiness; they can avoid early incapacitation if the emphasis shifts from crisis care to prevention. The increased preventative coverage will eliminate long-term cost for diagnosis and treatment.

Mr. President, I am introducing a third bill to evaluate preventative activities and to formulate practice guidelines. This bill would authorize the Centers for Disease Control to make grants to entities to evaluate which preventative screening and health promotion activities achieved the highest cost benefit and health improvement, utilizing the data to consider these procedures and activities and set appropriate practice guidelines to be contained in a clearing house at the Centers for Disease Control.

It requires this clearing house to disseminate such things as model insurance packages based on these findings. So that insurance coverage employers, governments, and individuals could evaluate what combination of insurance benefits have the highest potential return in terms of the reduction and the prevention of illness and disease, States and insurance companies would be encouraged to utlize this available information.

This third bill would provide a national, well publicized, comprehensive evaluation which is utilized in policymaking and in formulating insurance benefit packages. It would encourage the Federal Government and employees to begin health promotion activities, which in turn reduce long-term health care costs and premature disease and mortality,

It would assist the Department of Health and Human Services in achieving Healthy People 2000 objectives. A provision which is not contained in this bill, but which I believe this data might allow this and future Congresses to consider, would be to begin to tie eligibility for the tax deduction for health insurance to the inclusion within that health insurance of standards of practice that would promote wellness and the prevention of illness and disease.

Mr. President, how will these reform efforts improve and build upon our current health care system? These bills will not provide the answer to our health needs but they are a crucial way to begin addressing the health care crisis our Nation is facing by building upon and reforming our current system.

The Medigap glideslope bill does not address several important issues such as cost containment, physician reimbursement, rising Medicaid cost in proportion of State budgets. Most health care experts agree that health care costs continue to spiral out of control. Doctors are facing lagging Medicaid reimbursement. Administrative houses in States cannot continue to consume their portion of rising Medicaid costs and continue to balance their budgets. The Federal Government may have to assume more of the Medicaid costs in the future.

As you might recall, Mr. President, one of the components of President Reagan's new federalism was for the Federal Government to assume a larger, possibly even the total cost of the income maintenance programs in this country, specifically including the cost of Medicaid. That debate is one for another day. It is my feeling that these issues will be debated in the health reform discussions which our body will soon face and will be included in any serious health care reform effort.

Mr. President, although I do not now have budget estimates for these bills, it has been suggested that they are very compatible in costs to the determinations reached by the Pepper Commission which studied the issue of the provision of expanded health care particularly for older Americans. I am requesting a comprehensive evaluation of these proposals from the Congressional Budget Office.

Mr. President, difficult decisions await all of us as we consider the direction of health care reform. I am pleased that the issue has received this level of discussion of Congress and I hope that these proposals will facilitate the creation of a system which provides health care services to all Americans.

Mr. President, I ask unanimous consent that the full text of the three bills, a section-by-section summary of each of the bills and the accompanying support letters be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Medicaid Glideslope Act of 1991".

(b) REFERENCES IN ACT.—Except as otherwise provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

SEC. 2. OPTIONAL EXPANSION OF MEDICAID COVERAGE TO INDIVIDUALS WITH FAMILY INCOMES NOT EXCEEDING 300 PERCENT OF THE INCOME OFFICIAL POVERTY LINE.

(a) STATE OPTION.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)), as amended by section 4713(a) of the Omnibus Budget Reconciliation Act of 1990, is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" at the end of subparagraph (F); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) at the option of the State, but subject to subsection (z)(2) and section 1916(g)(5), for making medical assistance available to individuals who are described in subsection (z)(1);".

(b) DESCRIPTION OF GROUP.—Section 1902 (42 U.S.C. 1396a), as amended by section 4755(a)(2) of the Omnibus Budget Reconciliation Act of 1990, is amended by adding at the end the following new subsection:

"(z)(1) An individual is described in this paragraph if—

"(A) the individual is not otherwise covered under this title and not eligible to receive coverage under title XVIII of this Act; and

"(B) the family income of the individual does not exceed 300 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) Notwithstanding subsection (a)(17), for individuals who are eligible for medical assistance because of subsection (a)(10)(G)—

"(A) the income standard to be applied is the income standard described in paragraph (1)(B); and

"(B) family income shall be determined in accordance with a methodology that is no more restrictive than the methodology employed under title XVI of this Act, and costs incurred for medical care or any other type of remedial care shall not be taken into account.".

(c) BENEFITS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)), as amended by sections 4402(d) and 4713(a)(1)(D) of the Omnibus Budget Reconciliation Act of 1990, is amended, in the matter following subparagraph (G)—

(1) by striking "; and (XI)" and inserting ", (XI)";

(2) by striking ", and (XI)" and inserting ", and (XII)"; and

(3) by inserting before the semicolon at the end the following: ", and (XIII) the medical assistance made available to an individual described in subsection (z)(1) shall include only the care and services described in paragraphs (1), (2)(A), (3), (4)(B), (4)(C), and (5) of section 1905(a), and at the option of the State, any service described in section 1905(a)(22)".

(d) PREMIUMS AND COST SHARING.—Section 1916 (42 U.S.C. 1396o) is amended—

(1) in subsection (b), by striking "(A) or (E)" and inserting "(A), (E), or (G)"; and

(2) by adding at the end the following new subsection:

"(g)(1) the State plan shall provide that—

"(A) if the State elects under section 1902(a)(10)(G) to make eligible under this title individuals whose family income does not exceed 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, no premium, deduction, cost sharing, or similar charge may be imposed; and

"(B) if the State elects under such section to make eligible under this title individuals whose family income exceeds the income level determined by such State under subparagraph (B), such election must exceed such income level by 100 percentage points and must provide for a monthly premium and copayments as determined by the State in accordance with paragraphs (2) and (3), respectively.

"(2)(A) Except as provided in subparagraph (C), the amount of the monthly premium imposed under a State plan for any individual described in paragraph (1)(B) shall equal the applicable percentage of the national per capita costs of this title (other than with respect to medical assistance described in paragraphs (4)(A), (7), (14), and (18) of section 1905(a)).

"(B) For the purposes of this paragraph, the applicable percentage equals 10 percentage points for each 10 percentage point bracket (or any portion thereof) such individual's family's income exceeds the income level described in paragraph (1)(A), but shall not exceed 100 percentage points.

"(C) Notwithstanding any other provision of this subsection, the aggregate amount of premiums imposed on the family of any such individual shall not exceed 10 percent of the family income.

"(3) The amount of the copayment imposed under a State plan for any individual described in paragraph (1)(B) shall be determined by such State and shall only apply with respect to such individual whose family income equals or exceeds 150 percent of such income official poverty line.

"(4) The State plan shall provide that a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) may pay to the State on behalf of an individual who is an employee of the small business concern, the full amount of any premium and copayment under this subsection.

"(5)(A) Except as provided in subparagraph (B), the State plan shall provide that an individual who is enrolled in health insurance plan or program to which an employer makes contributions in the preceding calendar year, or is otherwise enrolled in the preceding calendar year in a private health insurane plan or program, shall not be eligible in the following calendar year to receive coverage for medical assistance pursuant to section 1902(a)(10)(G).

"(B) Subparagraph (a) shall not apply to any individual who is unemployed at the time such individual submits an application for coverage under section 1902(a)(10)(G).

"(6) The State plan shall provide, where appropriate, medical assistance to individuals eligible to receive coverage for medical assistance pursuant to section 1902(a)(10)(G) through public school-based health care programs.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10)(C) (42 U.S.C. 1396a(a)(10)(C)) is amended by striking "(A) of (E)" in the matter preceding clause (i) and inserting "(A), (E), or (G)".

(2) Section 1902(a)(17) (42 U.S.C. 1396(a)(17)) is amended by striking "and (m)(4)" and inserting "(m)(4), and (z)(2)".

(3) Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended by striking "or 1905(p)(1)" and inserting "1905(p)(1), or 1902(z)(1)".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished on or after July 1, 1992.

SECTION-BY-SECTION ANALYSIS OF THE MEDICAID GLIDESLOPE ACT 1991

SEC. 1. SHORT TITLE. The title would be referred to as the "Medicaid Glideslope Bill of 1991."

SEC. 2. Optional Expansion of Medicaid Coverage to Individuals with Family Incomes Not Exceeding 300 Percent of the Income Official Poverty Level. This section would allow states to optionally expand Medicaid coverage to a level to be determined by the state for all individuals up to age 65 and not exceeding 100 percent of the federal poverty level.

Once states determine that level, states could establish a Medicaid sliding fee scale based on income for a subsequent 100 percent increase for all individuals wishing to buy coverage and not exceeding 200 percent of the poverty level. For the buy in portion, individuals would pay 10 percent of national program costs per person for each 10 percent of income. This percentage of premium costs would increase by each additional 10 percent of the poverty level.

Total premiums could not exceed 10 percent of individual or family income. The premium, which is determined per average national Medicaid program costs, would not include nursing home costs.

States also could permit individuals up to 65 years and small businesses to buy Medicaid coverage at total per person program costs up to 300 percent of the poverty level.

Persons from 150-300 percent of the poverty level would pay a copayment to be determined by the state.

Persons would receive the current minimum benefit package available under Medicaid: inpatient hospital care, outpatient hospital care, laboratory and x-ray services, early and periodic screening, diagnostic, and treatment services, family planning services, physician, and dental care. States could opt to provide additional services.

The section does not allow persons who have received employer provided health insurance in the past year to receive coverage unless they are unemployed.

The state could provide medical assistance to eligible individuals through public schoolbase health care programs.

S. 1212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTIVE COVERAGE OF PERIODIC HEALTH EXAMINATION UNDER MEDICARE PART B PROGRAM

(a) IN GENERAL.—

(1) Section 1862(a)(7) of the Social Security Act (42 U.S.C. 1395y(a)(7)) is amended by inserting "except as provided in subsection (j)," immediately after "(7)".

(2) Section 1862 of such Act (42 U.S.C. 1395y) is amended by adding at the end the following new subsection:

"(j)(1)(A) In the case of an individual who (in such manner and for such period as the Secretary shall provide) elects to receive coverage for the services described in this subsection and pay the additional premium required under section 1839(g), the exclusion from coverage under subsection (a)(7) shall not apply to expenses incurred for services described in paragraph (2) furnished by a primary care physician (as described in paragraph (3)) during an annual periodic health examination (without regard to the location at which such services are furnished) to diagnose or prevent illness or injury.

"(B) An election under this subsection shall be in such form and manner and for such period as the Secretary may prescribe in regulations.

"(2) The services described in this paragraph shall include—

"(A) the taking of a health history;

"(B) a physical examination, including for all individuals examination for height, weight, blood pressure, visual acuity, hearing, and palpitation for preclinical disease;

"(C) laboratory and screening procedures, including—

"(i) nonfasting total blood cholesterol;

"(ii) fecal occult blood testing;

"(iii) for women, mammogram and Pap smear (as provided in paragraph (4)); and

"(iv) for individuals identified as being at high risk with respect to specific medical conditions—

"(I) fasting plasma gluscoe;

"(II) tuberculin skin test;

"(III) electrocardiogram;

"(IV) dipstick urinalysis;

"(VI) thyroid function test; and

"(VI) sigmoidoscopy;

"(D) counseling services, including—

"(i) counseling for—

"(I) exercise;

"(II) smoking cessation;

"(III) substance abuse; prevention

"(IV) injury prevention;

"(V) dental health; and

"(VI) mental health;

"(ii) for individuals identified as being at high risk for specific medical conditions, counseling for—

"(I) estrogen replacement therapy;

"(II) aspirin therapy; and

"(III) skin protection from ultraviolet light; and

"(iii) advising patients on the need to visit eye specialists for glaucoma testing; and

"(E) immunizations (including administration) (as provided in paragraph (4))—

"(i) as indicated for any individual, for—

"(I) tetanus;

"(II) diphtheria;

"(III) influenza; and

"(IV) pneumonia; and

"(II) as indicated for any individual identified of being at high risk for contracting hepatitis, for hepatitis B.

"(3) For purposes of this subsection, the term 'primary care physician' includes a physician (described in section 1861(r)(1)) who is a family practitioner, internal medicine specialist, general preventive medicine specialist, obstetrical or gynecological specialist, pediatrician, or any other physician conducting a periodic health examination.

"(4) For purposes of this subsection, a mammogram, Pap smear, or immunizations described in paragraph (2)(E), shall be covered and paid for under this subsection during an annual periodic health examination only to the extent that such services are not otherwise covered and paid for under this part.".

(b) ADDITIONAL PREMIUM FOR INDIVIDUALS ELECTING TO RECEIVE COVERAGE.—Section 1839 of such Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) Notwithstanding any other provision of this section, the amount of the monthly premium otherwise determined under this section with respect to an individual for months occurring in a calendar year shall be increased by $5.10 with respect to any individual who elects to receive coverage for the services furnished in connection with a periodic health examination described in section 1862(j).".

(c) PAYMENT AND WAIVER OF COPAYMENTS.—

(1) Section 1833(a)(1) of such Act (42 U.S.C. 13951(a)(1)) is amended by striking "and (N)" and by adding at the end the following: "(O) with respect to expenses incurred for the services furnished in connection with a periodic health examination described in section 1862(j), the amounts paid shall be 100 percent of the reasonable charges for such services or the fee schedule amount determined under section 1848 for such services,".

(2) The second to last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "with the first opinion)," the following: "with respect to services furnished in connection with a periodic health examination described in section 1862(j),".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to services furnished after December 31, 1992.

SEC. 2. COVERAGE OF CERTAIN IMMUNIZATIONS UNDER MEDICARE PART B PROGRAM.

(1) by striking "and" at the end of subparagraph (A),

(2) by inserting "and" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) such immunizations as the Secretary designates for prevention or treatment of tuberculosis,

meningococcal meningitis, tetanus, and such other infectious diseases as the Secretary determines present a public health problem, furnished to individuals who, as determined in accordance with regulations promulgated by the Secretary, are at high risk of contracting any of such diseases; and".

(b) WAIVER OF COPAYMENT.—

(1) Section 1833(a)(1) of such Act (42 U.S.C. 13951(a)(1)) is amended in subdivision (B) by striking "1861(s)(10)(A)" and inserting "1861(s)(10)".

(2) The second to last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) (as amended by section 1 of this Act) is further amended by striking "1861(s)(10)(A)" and inserting "1861(s)(10)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items and services furnished after December 31, 1992.

SEC. 3. MEDICARE PART B HEALTHY LIFESTYLE PREMIUM DISCOUNT.

(a) IN GENERAL.—Section 1839 of the Social Security Act (42 U.S.C. 1395r) (as amended by section 1 of this Act) is further amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding any other provision of this section, the amount of the monthly premium otherwise determined under this section with respect to an individual for months occurring in a calendar year shall be reduced by $1 if the individual is certified by a physician for that year (in accordance with procedures established by the Secretary in regulations) as an individual who maintains a healthy lifestyle.

"(2) An individual may be certified as maintaining a healthy lifestyle under paragraph (1) if—

"(A) the individual does not use any tobacco or tobacco product,

"(B) the individual does not consume medically detrimental amounts of alcohol, and

"(C) the weight of the individual is within a weight range that is appropriate for an individual of the same age and health status

"(D) the individual does not use illegal substances."

(b) CONFORMING CHANGES.—Section 1839 of such Act (42 U.S.C. 1395r) is further amended—

(1) in subsection (a)(2) by striking "provided in subsections (b) and (e)" and inserting "otherwise provided in this section".

(2) in subsection (a)(3) by striking "subsection (e)" and inserting "this section".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to premiums imposed after December 31, 1992.

SECTION-BY-SECTION ANALYSIS OF THE MEDICARE PREVENTION BILL

Sec. 1. Elective Coverage of Periodic Health Examination Under Medicare Part B Program. The section would allow Medicare Part B beneficiaries to elect to receive additional coverage for services provided during a periodic health examination by a primary care physician if beneficiaries pay an additional $5.10 premium per month. Participants would not pay a deductible or copayment.

Covered services include: the taking of a health history, a physical examination, laboratory and screening procedures, including nonfasting total blood cholesterol, fecal occult blood testing, for women, mammograms and Pap smears, for high risk individuals, fasting plasma glucose, tuberculin skin tests, electrocardiograms, dipstick urinalysis, thyroid function tests, and sigmoidoscopies, counseling for a healthy lifestyle, and for certain high risk conditions, immunizations for tetanus, diphtheria, influenza pneumonia, and for high risk individuals, hepatitis and hepatitis B.

Mammograms, pap smears, and immunizations which are covered under current law, shall be included only to the extent that such services are not otherwise covered under current law. Effective date would December 31, 1991.

Sec. 2. Coverage of immunizations under Medicare Part B Program. The section authorizes Medicare Part B coverage of immunizations for prevention and treatment of tuberculosis, influenza, memingococcal meningitis, tetanus, and hepatitis and hepatitis B for individuals at high risk of contracting such diseases. Effective date would be after December 31, 1991.

Sec. 3. Medicare Part B Health Lifestyle Premium Discount. The optional premium would be reduced by $1.00 if an individual is certified by a physician for that year as maintaining a healthy lifestyle. A healthy lifestyle means the individual does not: use any tobacco or tobacco product, consume medically deterimental amounts of alcohol, use illegal substances, maintain a weight that is inappropriate for an individual of a certain age and health status. Effective date would be after December 31, 1991.

S. 1213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

(1) organizations have recently displayed a greater interest in the relationship between the health practices of their employees and the expenditures incurred due to the behavior of such employees;

(2) several private organizations, universities, and business coalitions now use public and private funds to evaluate medical and health promotion work place programs;

(3) a national, well publicized, comprehensive evaluation of the health benefit and cost effectiveness of health promotion and prevention programs has not been provided for the purposes of public and private decision making;

(4) in order to combat the escalating costs of health care, a longitudinal evaluation of the type described in paragraph (3) could be utilized by the public, insurance companies, health care providers, and public health programs to provide the care that best saves money and improves the quality of life; and

(5) a long term evaluation of health promotion and prevention activities and the utilization of research gained as a result of such evaluation would reduce long term health care costs and premature disease and mortality.

SEC. 2 EVALUATION OF HEALTH PREVENTION AND PROMOTION PROGRAMS.

Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 905. COMPREHENSIVE EVALUATION OF HEALTH PREVENTION AND PROMOTION PROGRAMS.

"(a) GRANTS.—The Secretary, acting through the Director of the Centers for Disease Control, may award competitive grants to eligible entities for the purpose of enabling such entities to carry out evaluations of the type described in subsection (c).

"(b) REQUIREMENTS.—

"(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an entity shall—

"(A) be a public, nonprofit, or private entity or a university;

"(B) prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require; and

"(C) meet any other requirements the Secretary determines appropriate.

"(2) TYPES OF ENTITIES.—In awarding grants under this section, the Secretary shall consider applications from entities proposing to conduct evaluations using community programs, managed care programs state and county health departments, public education campaigns, and other appropriate programs. The Secretary shall ensure that no less than 50 percent of the grants awarded under this section be awarded to entities that will use funds received under such grants to conduct evaluations in the work place.

"(c) USE OF FUNDS.—

"(1) EVALUATIONS.—Amounts provided under a grant awarded under this section shall be used to conduct evaluations to determine which preventative health screenings and health promotion activities achieve the highest cost-benefit and health improvement in order to monitor practices and trends in preventative medical care and technology and to evaluate other areas determined appropriate by the Secretary.

"(2) USE OF CERTAIN INDIVIDUALS.—In conducting an evaluation under this section, an entity shall ensure that data concerning women, minorities, older individuals, dependents, individuals with different income levels, retirees, and individuals from diverse geographical backgrounds, are obtained.

"(3) MINIMUM SERVICES.—In conducting an evaluation under this section it is suggested that a minimum level of screening and other activities should be performed, that shall include—

"(A) blood pressure screening and control (to detect and control hypertension and coronary heart disease);

"(B) early cancer screenings;

"(C) blood cholesterol screening and control combined with stress management;

"(D) smoking cessation programs;

"(E) substance abuse programs;

"(F) dietary and nutrition counseling;

"(G) physical fitness counseling; and

"(H) stress management.

"(4) USE OF EXISTING DATA.—In conducting evaluations under this section, entities shall use existing data and health promotion and screening programs where practicable.

"(d) SITES.—

"(1) SELECTION.—Recipients of grants under this section should select evaluation sites under such grant that present the greatest potential for new and relevant knowledge.

"(2) NUMBER OF SITES.—Not less than three nor more than five sites shall be selected by a recipient under paragraph (1).

"(3) NUMBER OF EVALUATIONS.—Not more than five evaluations shall be operated within the same community.

"(e) REPORTING REQUIREMENTS.—

"(1) REPORTS BY GRANTEES.—Not later than 1 year after receiving a grant under this section, and at least once during every 1-year thereafter, an entity receiving a grant under this section shall prepare and submit to the Secretary a report containing a description of the activities conducted under the grant during the period for which the report is prepared, and the findings derived as a result of such activities.

"(2) CLEARINGHOUSE.—

"(A) ESTABLISHMENT.—The Secretary shall establish a clearinghouse to collect, store, analyze and make available data provided to the Secretary by entities conducting evaluations under this section.

"(B) USE OF DATA.—The clearinghouse shall use data obtained under this section to—

"(i) consider and rank health prevention and promotion activities and procedures in terms of quality, cost, and short- and long-term improvement;

"(ii) consider cost-benefit and quality of life improvements, and other areas determined appropriate by the Secretary, and to establish and disseminate practice guidelines for appropriate care to State and county health departments, State insurance departments, insurance companies, employers, and others determined appropriate by the Secretary; and

"(iii) prepare model prevention insurance packages for dissemination to State insurance departments and entities utilizing information disseminated under this section.

"(C) AVAILABILITY OF INFORMATION.—The clearinghouse shall make all information obtained under this section available to State, county and local health departments, insurers, and other entities determined appropriate by the Secretary.

"(f) TERM OF EVALUATIONS.—Evaluations conducted under this section shall be for a period of not less than 3 years nor more than 5 years. The Secretary may provide an extension of such period if determined appropriate.

"(g) CONSULTATION.—The Director of the Centers for Disease Control shall consult with the Administrator of the Agency for Health Care Policy and Research concerning activities conducted under this section that involve matters or data that is under the control of the Administrator.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, an amount equal to $500,000 for each site within a community that the Secretary intends to provide assistance to under this section in fiscal years 1992, and such sums as may be necessary during each of the fiscal years 1993 through 1996.

"(2) ADMINISTRATIVE COSTS.—There are authorized to be appropriated for administrative costs under this section, $1,000,000.

"(3) LIMITATION.—Amounts appropriated under this section shall not be utilized to provide services.".

SECTION-BY-SECTION ANALYSIS OF THE CDC-PREVENTION BILL

Sec. 1. Findings. The section reports that employers are interested in the relationship between health practices and health care costs of employees. A national, comprehensive evaluation of the health and cost benefit and cost effectiveness of health promotion and prevention programs has not been provided for policy making purposes. Such a long term evaluation and the utilization of research gained by employers, public health programs, and other appropriate entities would reduce long term health care costs and premature disease and mortality.

Sec. 2. Evaluation of Health Prevention and Promotion Programs. The section authorizes the Centers for Disease Control (CDC) to make grants to public, nonprofit, and private entities to evaluate which preventive screenings and health promotion activities achieve the highest cost-benefit and health improvement and to monitor practices and trends in wellness medical care and technology.

The data will be utilized to consider and rank certain procedures and activities in terms of quality, cost, short and long term improvement and to set guidelines for appropriate practice and, specifically, to provide information on benefit packages that are prevention oriented and cost effective to state, county, and local health departments, and insurance companies. 50% percent of evaluations will occur in the work place, the others will occur in community programs, managed care programs, state, county, and local health departments, and other appropriate entities.

Evaluations would run for 3-5 years, with yearly reports to CDC. Between 3-5 communities could be utilized for evaluation purposes. In a community, contractors may operate up to 5 evaluations. $500,000 per site would be authorized for FY 92 and $1 million would be authorized for administrative costs. Such sums as necessary would be authorized for FY 93-96.

It will be suggested but not required that evaluated programs provide certain health promotion screenings and benefits. Once the study is completed, the information would be made available by the Federal government through a clearinghouse established within CDC.

The clearinghouse will be required to disseminate information and a model insurance package to insurance companies, state, county, and local public health units, and other appropriate entities. States and insurance companies would be encouraged to utilize the available information on health promotion and prevention activities.

AMERICAN COLLEGE OF PREVENTIVE MEDICINE,
Washington, DC, May 30, 1991

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The American College of Preventive Medicine (ACPM) is pleased to endorse two important bills you will be introducing:

1. A bill to amend title XVIII of the Social Security Act to provide coverage for certain preventive care items and services under part B and to provide a discount in premiums under such part for certain individuals certified as maintaining a healthy lifestyle; and

2. A bill to amend title IX of the Public Health Service Act to require the Director of the Centers for Disease Control to acquire and evaluate data concerning preventive health and health promotion and other purposes.

As the national medical specialty society representing preventive medicine physicians, the American College of Preventive Medicine seeks to advance the science and practice of preventive medicine. ACPM is extremely heartened by the introduction of these bills and is pleased to be able to offer its strong endorsement.

The first bill represents an important landmark for disease prevention and health promotion not only by providing a package of preventive services but by providing proven effective services. ACPM is pleased to have been able to work with your excellent staff on this legislative proposal and is convinced of the importance of having the bill consistent with recommendations contained in the highly regarded and scientifically sound *Guide to Clinical Preventive Services.*

The second bill is consistent with ACPM priorities and represents an important step in the critical ongoing process of establishing a solid scientific base for disease prevention and health promotion activities and interventions.

ACPM strongly supports these legislative proposals and would be happy to continue to work with you and your staff on preventive medicine initiatives.

Sincerely,

SUZANNE DANDOY, MD,
President.

ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICIALS,
McLean, VA, June 3, 1991.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the Association of State and Territorial Health Officials (ASTHO), which represents the chief health officer from each state, I am writing in support of your initiative which will provide resources to evaluate which preventive screenings and health promotion activities achieve the highest cost-benefit and health improvement outcomes. As the debate over health insurance reform continues and as prevention takes a priority in that debate, the information supplied through your legislation will be crucial in determining effective prevention services.

ASTHO applauds your leadership in this area and hopes to work with you to strengthen the bill as it moves forward. Please contact Valerie Morelli, Associate Director, if ASTHO can be of assistance.

Sincerely yours,

GEORGE K. DEGNON,
Executive Vice President.

WELCOA,
May 21, 1991.

Senator BOB GRAHAM,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: I am writing in support of the proposed legislation that would amend title IX of the Public Health Service Act by establishing an Office for Health Promotion and Prevention Evaluation Planning. Organizations continue to show greater interest in health promotion activity for their employees and the potential impact these activities have on an employee's health status and health care expenditures. Although a few of the larger organizations such as AT&T and Johnson & Johnson have provided evaluation studies, there is a great need to undertake a national, well publicized, comprehensive evaluation of health improvement and cost efficiency of health promotion and prevention programs.

The outcomes of this type of approach will yield only positive results. With well documented information, more worksites will opt to begin health promotion activities which in turn will yield a healthier workforce and lower health care costs.

I urge you to continue your efforts to win support for this bill.

Sincerely,

HAROLD S. KAHLER, Jr., Ph.D.,
President.

STANFORD CENTER FOR RESEARCH IN DISEASE PREVENTION,
Palo Alto, CA, May 22, 1991.

Senator BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: Thank you and Ms Susan Emmer for our correspondence during the last two months focused on your new bill to amend the Public Health Service Act to conduct a national demonstration and evaluation of the health and cost efficacy of health promotion programs in the worksite. After reading the draft of your new bill I am writing in strong support of your bill.

Although approximately twenty five (25) demonstration and evaluation projects of comprehensive programs have been conducted to date, these studies are lacking in the uniformity of intervention and analysis which is needed for a national demonstration stated in your bill. Given the existence of these prototype programs, this bill would provide an excellent opportunity for public-private collaboration. Corporations can provide access to a broad cross section of the United States population, academic centers can provide the intervention and analysis, and the US Government can serve a vital leadership function. Most of all, an effort as indicated in your bill would have far reaching public policy applications.

With the extensive sophistication in community based, health interventions and the Corporation Health Program of the Stanford Center, we would be willing to participate in such a project. Also, there are seventeen (17) major corporations (See enclosure) with whom we have worked for seven years. Given our track record, it is certain that a majority of these companies would serve as demonstration sites.

Your proposed bill is timely, necessary, and totally feasible. It represents an excellent example of a public-private initiative which would provide a data base for informed public policy focused on the national crisis in medical costs.

Sincerely yours,

DR. KENNETH R. PELLETIER,
Senior Clinical Fellow.

By Mr. SPECTER:

S. 1214. A bill to direct the Secretary of Health and Human Services to treat physicians services furnished in Lancaster County, PA, as services furnished in a No. II locality for purposes of determining the amount of payment for such services under part B of the Medicare Program; to the Committee on Finance.

CHANGE IN DESIGNATION OF LANCASTER COUNTY, PA, FOR PURPOSES OF MEDICARE SERVICES

Mr. SPECTER. Mr. President, I join today with my colleague in the House of Representatives, Congressman ROBERT WALKER, in introducing a bill to change the designation of Lancaster County for the purpose of Medicare reimbursement. This bill, the Lancaster County Medicare Reimbursement Act of 1991, would correct an imbalance that has existed for many years in the calculations for reimbursement under part B of Medicare for doctors who live in Lancaster County, PA.

Pennsylvania, as with many other States, is divided into four geographic classes for purposes of Medicare reimbursement, with class I receiving the highest reimbursement rates. Only Philadelphia and Pittsburgh fall into this category as medical centers, while class II is for major metropolitan areas. Class III is designated for lesser metropolitan areas, and class IV, in which Lancaster County falls, is for rural areas.

Lancaster may have been a rural county when the original designation was made in 1970. However, since the original designation, Lancaster has developed into a major metropolitan area of more than 400,000 residents, with a high standard of living and access to major social and cultural events. Of 67 counties in the Commonwealth of Pennsylvania, Lancaster is one of the 6 counties that has a population of over 400,000. Moreover, of the 13 Pennsylvania counties designated as class II, in which Lancaster County deserves to be included, only 4 counties are larger than Lancaster. Accordingly, the bill I am introducing will adjust the discrepancy by having Lancaster County designated in class II, where it deservingly belongs.

In spite of all the evidence, the Health Care Financing Administration has refused to change Lancaster's charge class, even though Pennsylvania Blue Shield has already changed Lancaster County's designation for its private business from class IV to class II.

As there may be many rural counties in your own State that are experiencing this unfair treatment, I am hopeful that you will see this legislation as a matter of fairness, and not as a parochial or atypical situation. Nor is this bill without a precedent, as just last year, the Senate passed a similar measure for rural Harvey County in Kansas.

I urge my colleagues to join me in supporting this legislation, which will restore equitable treatment to the doctors of Lancaster County, as well as to ensure the best possible treatment to our Medicare beneficiaries.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF PHYSICIAN'S SERVICES FURNISHED IN LANCASTER COUNTY IN DETERMINING PAYMENT AMOUNTS UNDER MEDICARE.

With respect to physicians' services furnished in Lancaster County, Pennsylvania, on or after the date of the enactment of this Act, the Secretary of Health and Human Services shall use a number II locality as the locality applicable under section 1842(b) of the Social Security Act in determining the amount of payment made for such services under part B of the Medicare Program.

By Mr. GORTON (for himself, Mr. NUNN, Mr. MCCAIN, Mr. INOUYE, Mr. COCHRAN, Mr. DECONCINI, and Mr. CRAIG):

S. 1215. A bill to amend the Public Health Service Act to establish a program to fund maternity home expenses and improve programs for the collection and disclosure of adoption information, and for other purposes; to the Committee on Labor and Human Resources.

ADOPTION ASSISTANCE AND MATERNAL CERTIFICATES ACT

Mr. GORTON. Mr. President, today I rise to introduce legislation that will create a support network and offer counseling to those mothers who choose both to put their child up for adoption, and for those families who wish to adopt.

This legislation lends support to young mothers who wish to consider adoption as an option, but who do not have the guidance and counseling to pursue that path. It also will ensure that adopted children and families receive the same benefits as biological families: Placing more emphasis on the special needs of all involved in the adoption process.

Sadly, in the United States today, one in four children is born into a single-parent home. The number of children in single female-headed households has increased 81 percent over the past 20 years, and this rise is one of the root causes of family disintegration in our Nation.

The Adoption Assistance and Maternal Certificates Act begins to address the myriad of delemmas plaguing young mothers by creating a new grant program that provides maternal health certificates to low-income pregnant women who enter maternity homes. To assure support for these women, the program is established with a matching grant from the State or participating home.

Maternity homes provide young women a safe haven in which they can experience good counseling, a structured environment, and a variety of other services such as schooling, job counseling, and prenatal care.

In addition, this measure encourages collection of information on adoption in the United States in order to provide a better understanding of the adoption alternative, and requires that agencies provide all available information on a child to a prospective foster or adoptive parent. The agency reimbursement rate is increased when a child is placed within 3 months of becoming legally free for adoption and equal treatment is required for adoptive parents in insurance policies and parental leave benefits.

Mr. President, enactment of this bill will promote permanent, adoptive homes, reduce the number of children in our Nation's foster care programs, and will provide for the best interests of the adoptive child. I encourage my colleagues to join in giving women another choice.

Mr. President, I thank particularly the distinguished Senator from Georgia [Mr. NUNN] whose efforts in my behalf have been of great assistance, and several other original cosponsors who agreed to join in this effort.

I ask unanimous consent that the text of my bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Adoption Assistance and Maternal Certificates Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) in the United States today, 25 percent of children are born into single parent homes;

(2) the number of children in single female-headed homes has increased 81 percent, rising from 7,500,000 in 1970 to 13,500,000 in 1988;

(3) the rise in single-parenthood is one of the root causes of family disintegration in the Nation today;

(4) adoption addresses the problem of family disintegration at the beginning by getting children into solid, two-parent homes and giving birthmothers the opportunity to mature before taking on the adult responsibilities of child-rearing;

(5) adoption is the least chosen option for women in crisis pregnancies, as evidenced by the fact that adoptions have decreased by 38,000 since 1970;

(6) currently, only 6 percent of all teenage mothers choose adoption;

(7) young, unmarried women who make an adoption plan for babies are more likely to complete high school, less likely to live in poverty, and less likely to receive public assistance than single parents;

(8) 60 percent of welfare recipients are, or were at one time, teenage mothers;

(9) several studies show that, when compared to teenagers who keep their babies, teenage mothers who choose adoption are less likely to have repeat unwed pregnancies;

(10) adoption is a good plan for a baby, as demonstrated by the fact that 90 percent of adopted children live with two married parents and 54 percent of the children live in homes with family income three times higher than poverty level;

(11) adopted children have been found to have more confidence than children that are not adopted;

(12) maternity homes provide young mothers a safe haven away from peer pressure and time to consider thoughtfully the best plan for themselves and their babies;

(13) young mothers in maternity homes receive good counseling, a structured environment, and a variety of other services such as schooling, job counseling, and prenatal care;

(14) the relinquishment rate at maternity homes is significantly higher than the general adoption placement rate;

(15) St. Anne's Maternity Home in California reports a 22 percent rate of relinquishment compared to a general rate of relinquishment of only 5 percent in California;

(16) there are approximately 300,000 children in foster care, of whom only 36,000 are legally free and waiting for adoption;

(17) sadly, 40 percent of the children in foster care have been in the system 2 or more years, while 25 percent have been in foster care at least 3 years; and

(18) 60 percent of children in foster care are classified as "special needs" children, meaning they have physical or emotional difficulties, belong to sibling groups, or are minorities or older children.

SEC. 3. MATERNAL HEALTH CERTIFICATES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART M—MATERNAL HEALTH AND ADOPTION

"SEC. 399F. MATERNAL HEALTH CERTIFICATES PROGRAM.

"(a) GRANTS.—The Secretary shall award grants to 10 States to enable such States to establish programs to provide maternal health certificates to eligible women within such States.

"(b) STATE ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary shall require, including—

"(1) an assurance that the State shall establish a maternal health certificates program in accordance with this section;

"(2) an assurance that the State shall establish procedures to comply with the requirements of subsection (f)(3); and

"(3) the name of an agency designated by the State to administer the maternal health certificates program.

"(c) ELIGIBLE WOMEN.—To be eligible to receive a maternal health certificate under a program established under this section, a woman shall—

"(1) be a pregnant female;

"(2) have an annual income (within the meaning of section 1612(a) of the Social Security Act (42 U.S.C. 1382a(a)) but not including the income of, or support received by the woman from, parents, guardians, or the father of the child) that does not exceed 175 percent of the State poverty level;

"(3) be a current resident of a maternity home, on a waiting list for such a home, or receiving outpatient services from such a home;

"(4) prepare and submit, to the State agency designated under subsection (b)(3), an application at such time, in such form, and containing such information as such agency shall require, including—

"(A) the name and address of the maternity home in which the woman resides or intends to reside, or from which the woman intends to receive services; and

"(B) the rates charged by the maternity home and the estimated length of time the woman expects to stay or receive services from the home; and

"(5) comply with any other requirements determined appropriate by the Secretary.

"(d) MATERNITY HOME ELIGIBILITY.—To be eligible to receive a maternal health certificate as payment for services provided to a eligible woman under a program established under this section, a maternity home shall—

"(1) be a residence for pregnant women;

"(2) have the capacity to serve at least four pregnant women concurrently;

"(3) be licensed or approved by the State; and

"(4) provide to eligible women and, where appropriate, to their babies a range of services that are in accordance with the standards promulgated by the Secretary under subsection (g), including standards regarding—

"(A) room and board;

"(B) medical care for the women and their babies, including prenatal, delivery, and post-delivery care;

"(C) instruction and education concerning future health care for both the women and babies;

"(D) nutrition and nutrition counseling;

"(E) counseling and education concerning all aspects of pregnancy, childbirth, and motherhood;

"(F) general family counseling, including child and family development education;

"(G) adoption counseling, which can include referral to a licensed nonprofit adoption agency, if the home is not such an agency;

"(H) counseling and services concerning education, vocation, or employment; and

"(I) reasonable transportation services.

"(e) USE OF CERTIFICATES.—A woman who receives a certificate awarded under a program established under this section shall use such certificate to pay the costs associated with the residence of or services provided to the woman in a maternity home. Such costs shall be reasonably related to the range of services described in subsection (d)(4).

"(f) LIMITATIONS ON CERTIFICATES.—

"(1) TIME.—Certificates awarded under a program established under this section shall cover expenses incurred during a period that shall end not later than 1 month after the birth of the baby to the eligible woman.

"(2) AMOUNT.—The amount of a certificate awarded under a program established under this section shall not exceed, during the period in which the certificate is valid—

"(A) in the case of a resident, $80 per day; and

"(B) in the case of a woman receiving outpatient services, $50 per day.

"(3) MATCHING REQUIREMENT.—Procedures established under subsection (b)(2) shall require that—

"(A) the State agency designated under subsection (b)(3);

"(B) the maternity home receiving a certificate under a program established under this section; or

"(C) both the State agency and the maternity home receiving the certificate;

provide an amount that is at least equal to the amount of the certificate awarded to an eligible woman for the payment of the costs associated with providing residence or services to the woman in a maternity home.

"(g) REGULATIONS.—Not later than 90 days after the date of the enactment of this part, the Secretary shall promulgate regulations to establish the standards described in subsection (c)(4). In promulgating the regulations, the Secretary shall consider such standards as the Council on Accreditation for Families and Children may determine to be appropriate.

"(h) PARTICIPATION IN AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM.—Notwithstanding any other provision of this section, no woman shall be required to participate in the program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to be eligible for a maternal health certificate under this section.

"(i) PROHIBITION ON SUPPLANTING OF SERVICES.—No maternal health certificate issued under this section shall be used to supplant existing State, county, or local government

funds that are used to provide services similar to those described in subsection (d)(4) for low-income pregnant females.

"(j) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide, through grants or contracts, for the continuing evaluation of programs established under this section, to determine—

"(A) the effectiveness of such programs in achieving the goals stated in paragraph (3) in general, and in relation to cost;

"(B) the impact of such programs on related programs, including programs under titles IV, V, and XIX of the Social Security Act (42 U.S.C. 601 et seq., 701 et seq., and 1396 et seq.) and titles X and XX of this Act; and

"(C) the structure and mechanisms for the delivery of services for such programs.

"(2) COMPARISONS.—The Secretary shall include in evaluations under paragraph (1), where appropriate, comparisons of participants in such programs with individuals who have not participated in such programs.

"(3) GOALS.—For purposes of paragraph (1)(A), the goals of this section shall be to—

"(A) increase the availability of services to low-income pregnant eligible women;

"(B) improve the physical and psychological health of such a woman;

"(C) ensure a safe and healthy pregnancy, delivery, and postpartum period for the woman;

"(D) promote the delivery of a healthy baby to the woman;

"(E) increase the knowledge of the woman regarding proper health and nutrition for the woman and her baby;

"(F) increase the ability of the woman to support herself financially;

"(G) help the woman make an informed decision whether to parent her baby or to make an adoption plan for her baby;

"(H) increase the ability of the woman to support her baby financially and emotionally, if the woman so chooses; and

"(I) assist the woman in placing her baby for adoption, if the woman so chooses.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $40,000,000 for each of the fiscal years 1992 through 1994.".

SEC. 4. DATA COLLECTION.

Part M of title III of the Public Health Service Act (as added by section 3 of this Act) is amended by adding at the end the following new section:

"SEC. 399G. DATA COLLECTION.

"(a) DATA.—Not later than 90 days after the date of the enactment of this part, the Secretary shall promulgate final regulations to ensure the inclusion, in the system for which the Secretary promulgated regulations under section 479(b)(2) of the Social Security Act (42 U.S.C. 679(b)(2)), of—

"(1) data concerning adoptions arranged through private agencies that receive Federal assistance; and

"(2) to the extent such data are voluntarily released by private agencies that receive no Federal assistance, data concerning adoptions arranged through the agencies.

"(b) DISCLOSURE AND CONFIDENTIALITY.—The regulations promulgated under subsection (a) shall provide for the establishment of procedures—

"(1) for the disclosure by the Secretary of aggregate information collected under this section relating to adoption and foster care in the United States; and

"(2) for the maintenance of confidentiality by the Secretary, the agencies described in subsection (a)(1), and the agencies described in subsection (a)(2) to the extent such agencies collect information under this section, of information collected under this section with respect to the identity of an individual, unless the Secretary obtains the prior written consent of the individual whose identity the information would reveal.".

SEC. 5. DISCLOSURE REGULATIONS.

Part M of title III of the Public Health Service Act (as added by section 3 and amended by section 4) is further amended by adding at the end the following new section:

"SEC. 399H. ADOPTION DISCLOSURE REGULATIONS.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this part, the Secretary of Health and Human Services shall promulgate regulations that require an adoption or foster care agency that receives Federal assistance to disclose, to prospective adoptive and foster parents of a child, and only to such parents, information about the history of the child, including—

"(1) the medical and treatment history of the child;

"(2) information about the social background of the child;

"(3) information about the placement of the child; and

"(4) any record of abuse or neglect of the child.

"(b) CONFIDENTIALITY.—The regulations promulgated under subsection (a) shall specify procedures—

"(1) for disclosing the information described in subsection (a); and

"(2) for maintaining the confidentiality of any information collected under this section that would reveal the identity of an individual who placed a child into adoption or foster care, or committed any criminal act with respect to the child, unless the Secretary obtains the prior written consent of the individual whose identity the information would reveal.".

SEC. 6. EQUAL INSURANCE COVERAGE FOR ADOPTED CHILDREN.

(a) DEFINITIONS.—

(1) INSURANCE CONTRACT.—The term "insurance contract" means a contract for health or life insurance, as determined under State law, which provides coverage of a family.

(2) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, a child placed for adoption, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(b) NONDISCRIMINATION.—It shall be unlawful for any person to discriminate against an individual with respect to the making, performance, modification, or termination of an insurance contract, or the enjoyment of any benefit, privilege, term, or condition of an insurance contract, on the basis of the fact that a son or daughter of the individual is not a biological child of the individual.

(c) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations contained in this section, any person may bring a civil action to enforce the provisions of this section in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) TIMING OF COMMENCEMENT OF CIVIL ACTION.—No civil action may be commenced under paragraph (1) later than 1 year after the date of the last event that constitutes the alleged violation.

(3) VENUE.—An action brought under paragraph (1) in a district court of the United States may be brought in any appropriate judicial district under section 1391 of title 28, United States Code.

(4) RELIEF.—In any civil action brought under paragraph (1), the court may—

(A) grant as relief against any respondent that violates any provision of this title—

(i) any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate; and

(ii) such damages as the court determines appropriate, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) award to a prevailing party (other than the United States) in the action a reasonable attorney's fee.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require any person to make, perform, modify, or terminate an insurance contract, or extend any benefit, privilege, term, or condition of the contract that the person would not otherwise have provided to an individual with a biological child.

SEC. 7. EQUAL LEAVE BENEFITS FOR ADOPTIVE PARENTS.

(a) DEFINITIONS.—As used in this section:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (3) and (1), respectively, of section 120 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (3) and (1)).

(2) EMPLOY.—The term "employ" has the meaning given the term in section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)).

(3) EMPLOYEE.—The term "employee" means any individual employed by an employer.

(4) EMPLOYER.—The term "employer" means any person engaged in commerce or in any industry or activity affecting commerce.

(5) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including health insurance, sick leave, and annual leave, regardless of whether such benefits are provided by a policy or practice of an employer or through an "employee welfare benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(6) LEAVE BENEFIT.—The term "leave benefit" means—

(A) any leave provided by the employer to enable a parent to prepare for the arrival of a son or daughter or to care for a son or daughter;

(B) any right to reemployment with the employer after the leave described in subparagraph (A); and

(C) any right to the receipt of pay or employment benefits, or the accrual of seniority, during the leave described in subparagraph (A).

(7) PARENT.—The term "parent" means the biological parent of the child or an individual who stands in loco parentis to a child when the child is a son or daughter.

(8) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, a child placed for adoption, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(b) NONDISCRIMINATION.—It shall be an unlawful employment practice for an employer to discriminate against an employee with respect to a term or condition of any leave benefit on the basis of the fact that a son or daughter of an employee is not a biological child of the employee.

(c) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations contained in this section, any person may bring a civil action against an employer to enforce the provisions of this section in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) TIMING OF COMMENCEMENT OF CIVIL ACTION.—No civil action may be commenced under paragraph (1) later than 1 year after the date of the last event that constitutes the alleged violation.

(3) VENUE.—An action brought under paragraph (1) in a district court of the United States may be brought in any appropriate judicial district under section 1391 of title 28, United States Code.

(4) RELIEF.—In any civil action brought under paragraph (1), the court may—

(A) grant as relief against any respondent that violates any provision of this title—

(i) any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate; and

(ii) damages in an amount equal to any wages, salary, employment benefits, or other compensation denied or lost to such eligible employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate; and

(B) award to a prevailing party (other than the United States) in the action a reasonable attorney's fee.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require an employer to provide any leave benefit that the employer would not otherwise have provided to an employee with a biological child.

SEC. 8. PAYMENTS TO STATES FOR EXPEDITED PLACEMENT UNDER THE ADOPTION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 474(a)(3) of the Social Security Act (42 U.S.C. 674(a)(3)), as amended by section 5071 of the Omnibus Budget Reconciliation Act of 1990, is amended—

(1) by redesignating subparagraph (C) as subparagraph (D);

(2) by striking "and" at the end of subparagraph (B); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) 80 percent of so much expenditures as are for the recruitment of adoptive parents in any case where the placement for adoption of a child with special needs occurs not later than 3 months after the child is determined under State law to be legally free for adoption, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made for each quarter beginning on or after 60 days after the date of enactment of this Act.

SEC. 9. EXTENSION OF ARMED SERVICES ADOPTION EXPENSE REIMBURSEMENT.

(a) IN GENERAL.—Section 638(h) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1106; 10 U.S.C. 113 note) is amended—

(1) in paragraph (1), by striking ", and before October 1, 1990"; and

(2) in paragraph (2), by striking ", and before October 1, 1990".

(b) CONFORMING AMENDMENTS.—Section 638 of such Act is amended—

(1) in subsection (a)—

(A) in the heading, by striking "Test program" and inserting "Program"; and

(B) by striking "test program" each place the term appears and inserting "program"; and

(2) in subsection (h)—

(A) in the heading, by striking "Test program" and inserting "Program"; and

(B) by striking "test program" and inserting "program".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply as if in effect on October 1, 1990.

By Mr. GORTON (for himself, Mr. KENNEDY, Mr. KOHL, Mr. DIXON, Mr. COHEN, Mr. GORE, and Mr. D'AMATO):

S. 1216. A bill to provide for the deferral of enforced departure and the granting of lawful temporary resident status in the United States to certain classes of nonimmigrant aliens of the People's Republic of China; to the Committee on the Judiciary.

CHINESE STUDENT PROTECTION ACT

Mr. GORTON. Mr. President, at the close of the 101st Congress last year, my final remarks on this floor constituted an exhortation, a reprimand, if you will. Those few of my colleagues who remained on the floor that night might remember my lament that we were leaving undone a good and noble deed, leaving undone a job we had begun, but had neither energy nor will to complete.

On that night in October, Mr. President, exhaustion was the legacy of our long and difficult debate concerning the Federal budget and other pressing, last-minute legislation. With those contentious issues settled, our first thoughts—indeed, our only thoughts, it seems—were of home. We had families to see, elections to attend to, private lives to resume. But there were others that night, Mr. President, whose thoughts also were, and are, of home—the Chinese students visiting America when their worlds were set awry by the events of June 4, 1989.

We had attempted to address their dilemma in the Immigration Act of 1990, but the necessary language was dropped in the conference report, due more to lack of time than lack of purpose. We promised ourselves that the plight of these students would be our first order of business upon convening for the 102d Congress.

Then we would have time, Mr. President. There would be no burdensome debates awaiting our return. Revived and renewed, we would turn our energies to the dilemma of these patient young people.

But I need not remind any Member of this body that we began the 102d Congress engaged in a profound and momentous debate of another nature. Once again the best and brightest young people of China, those whose dreams of democracy are in our keeping, were asked to wait while we attended to more urgent matters.

Mr. President, it is enough. Enough waiting, enough postponement of lives, enough procrastination.

Yesterday was June 4 in Beijing, Mr. President, 2 years since the bloody travesty of Tiananmen Square. Two years since the yearning for democracy sweeping the globe was quashed in China. Two years in which our memories of a young man standing down a tank have begun to fade.

But those who dream of democracy in China have not forgotten, Mr. President. In the Chinese language the word for little bottles—"xiao ping"—sounds like the name of the aging leader of China, Deng Xiao Ping. Yesterday, as the second anniversary of the massacre at Tiananmen Square approached, the forced silence in China was interrupted by the defiant sound of breaking little bottles, an oppressed people's courageous reminder that their memories have not faded, and will never fade.

The Chinese Government continues to take steps to hide, if it cannot dispel, those memories. It attempts to quell dissent before it is rekindled. The air of oppression continues to hang heavy in China. But the scattered tinkling of broken glass cuts through that fog of oppression. Rays of hope filter through to those who continue to nurture the dream of a people.

Now it is June 4 in this country, Mr. President, and it is time for this great body to recognize and give substance to those dreams as it began, but failed to do last year.

Mr. President, today I am introducing for myself, Mr. KENNEDY, Mr. KOHL, Mr. DIXON, Mr. COHEN, Mr. GORE, and Mr. D'AMATO, legislation that completes our long-postponed job. It will codify for visiting Chinese students the short-term protections of the Executive order issued by the President in the spring of 1990. It would allow the students to remain safely in this country until January 1, 1994, during which time they may change or adjust their status as immigration numbers become available. Appropriate work and travel authorization and documentation are also provided for.

But more importantly for these young proponents of freedom, and for those in China who derive renewed hope from the fate of their compatriots in America, it will allow Chinese students in this country to make concrete plans for their futures: If by October 1, 1993, the President has not certified to Congress that it is safe for them to return to their homeland, then these students, the cream of Chinese society, will have the right to apply for temporary resident satus, the first step to becoming American citizens.

Mr. President, the thoughts that I just mentioned contain the mundane words of a country whose freedom was long ago achieved and sustained: "Legislation," "codify," "safely," "rights," "citizens." How easily, how dryly,

those words of freedom flow daily from our lips and pens. Do we ever feel anymore the flutter of exhultation, the tumult of hope, that our forefathers felt in a small harbor in Boston as they fought and died for the meaning behind these words?

Broken bottles or boxes of tea. What is the difference, really, Mr. President? Freedom's dream was made real by our ancestors and given into our keeping. We can do no less than pass it along to those whose own freedom is still but a dream.

Mr. President, today, June 4, I ask this great body for its support of legislation that will codify the dreams of those who would break bottles to build democracy.

Mr. President, I ask unanimous consent that a copy of the bill in its entirety be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chinese Student Protection Act of 1991".

SEC. 2. DEFERRAL OF ENFORCED DEPARTURE.

(a) DURATION OF STATUS.—Nationals of the People's Republic of China described in section 245B(a)(1)(B) of the Immigration and Nationality Act, as added by section 3 of this Act, shall have their enforced departure deferred from the United States until—

(1) January 1, 1994, or

(2) July 1, 1994, in the event that the President on or before October 1, 1993, has not certified to the Congress that conditions in the People's Republic of China permit such nationals to return to that country in safety.

(b) TRAVEL DOCUMENTS.—The Secretary of State and the Attorney General shall take all steps necessary with respect to such People's Republic of China nationals—

(1) to waive through the period of deferral of enforced departure the requirement of a valid passport; and

(2) to process and provide necessary documents, both within the United States and at United States consulates overseas, to facilitate travel across the borders of other nations and reentry into the United States in the same status that such People's Republic of China nationals had upon departure from the United States.

(c) WAIVER OF TWO-YEAR HOME COUNTRY RESIDENCE REQUIREMENT.—The two-year home country residence requirement shall not apply to any People's Republic of China national whose enforced departure has been deferred under subsection (a).

(d) ADMINISTRATIVE PROVISIONS.—(1) Any People's Republic of China national whose enforced departure was deferred under subsection (a) shall be deemed to be in lawful status throughout the period of such deferral for purposes of adjustment of status or change of nonimmigrant status.

(2) The Attorney General shall provide to any People's Republic of China national whose enforced departure has been deferred under subsection (a) notice of any expiration of nonimmigrant status in lieu of instituting deportation proceedings and shall provide to such national an explanation of options available.

(e) AUTHORIZATION OF TRAVEL ABROAD.—During the period that a national of the People's Republic of China is in deferral of enforced departure status under subsection (a), the Attorney General shall, in accordance with regulations, permit such national to return to the United States after such brief and casual trips abroad as reflect an intention on the part of such national to continue residence in the United States.

(f) EMPLOYMENT AUTHORIZATION.—During the period that a national of the People's Republic of China is in deferral of enforced departure status under subsection (a), the Attorney General shall grant such national authorization to engage in employment in the United States and shall provide such national with an "employment authorized" endorsement or other appropriate work permit.

SEC. 3. ADJUSTMENT OF STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

The Immigration and Naturalization Act is amended by inserting after section 245A the following new section:

"SEC. 245B. ADJUSTMENT TO LAWFUL TEMPORARY RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

"(a) ADJUSTMENT OF STATUS.—The status of a national of the People's Republic of China shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence—

"(1) if the President has not determined and so certified to Congress on or before October 1, 1993 that conditions in the People's Republic of China permit such aliens to return to that country in safety; and

"(2) if the alien—

"(A) applies for such adjustment during the 9-month period prior to July 1, 1994;

"(B) establishes that the alien—

"(i) lawfully entered the United States before April 11, 1990, as a nonimmigrant described in subparagraph (F) (relating to students), subparagraph (J) (relating to exchange visitors) or subparagraph (M) (relating to vocational students) of section 101(a)(15) of the Immigration and Nationality Act, or changed status to that of a nonimmigrant described in any such subparagraph before April 11, 1990;

"(ii) held a valid visa under any such subparagraph or were otherwise in lawful status as of April 11, 1990; and

"(iii) has resided continuously in the United States since June 4, 1989 (other than brief, casual, and innocent absences); and

"(C) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)), except that membership in the Communist Party of the People's Republic of China or any subdivision thereof shall not constitute an independence basis for denial of adjustment of status if membership was involuntary or nonmeaningful and if the alien on or before the date of adjustment of status terminates such membership and renounces communism.

"(b) IMPLEMENTING REGULATIONS.—Not later than January 1, 1993, the Attorney General shall prescribe regulations for the acceptance and processing of applications.

"(c) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c) (6) and (7), (d), (f), (g), and (h) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245(a) of such Act.

"(d) WAIVER OF TWO-YEAR HOME COUNTRY RESIDENCE REQUIREMENT.—The two-year home country residence requirement shall not apply to any national of the People's Republic of China who would otherwise be eligible for adjustment of status under this section but for that requirement.".

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation that seeks to protect a small group of individuals, who, without the protection of the United States, almost assuredly face persecution in their homeland. The bill, the Chinese Student Protection Act of 1991, will make sure that students from China studying here in the United States will have the full assurance of Congress that they will not be sent back to their homeland against their will.

I am well aware, as I am sure are most of my colleagues, that under Presidential Executive order, those Chinese students studying in our Nation will be protected until January 1, 1994, but what will happen beyond that date remains a mystery. The bill that Senator GORTON and I are introducing today will allow these students to stay in our Nation until January 1, 1994, and will allow them to change their current immigration status within that time. In addition, should the President certify 3 months prior to the January 1, 1994, deadline that it is not safe for these students to return to China, then these students would be allowed to apply for temporary resident status in the United States. This would be the first step toward American citizenship.

Two years ago today, the Government of the People's Republic of China brutally put to an end the brief experiment in democracy undertaken in Tiananmen Square. We cannot forget the Goddess of Democracy, fashioned after our own Statue of Liberty, being torn down by Chinese troops. We cannot forget that lone individual standing defiantly in front of a column of tanks. We cannot forget the hundreds and perhaps thousands of individuals who were killed for daring to dream of a government where the people determine the rule of law.

Our collective memory cannot be allowed to lapse. Sadly though, to many in our Nation, Tiananmen Square is as far away mentally as it is physically. However, to a certain group of students here in our Nation, the struggle is very much alive. We cannot and should not force these students to return to a government that has demonstrated a willingness to imprison and execute the supporters of the democracy movement in China. I am pleased to join Senator GORTON in cosponsoring this bill and I call upon my colleagues to join us in support of this important legislation.

Thank you, Mr. President.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1217. A bill to establish a field office of the Federal Emergency Management Agency in the State of Hawaii; to the Committee on Governmental Affairs.

ESTABLISHMENT OF A FEMA FIELD OFFICE IN HAWAII

• Mr. AKAKA. Mr. President, for myself and my senior colleague, Senator INOUYE, I am introducing legislation today that would require the Federal Emergency Management Agency [FEMA] to establish a permanent field office in the State of Hawaii to serve the disaster needs of the Pacific area.

Mr. President, it is an unfortunate but true fact that the Pacific area suffers from the highest frequency and magnitude of disasters of any FEMA region. In the last 15 years, there have been a total of 33 Presidential declarations of a major disaster in the region, and 7 additional requests that were not declared. FEMA's responsibilities in the area are enormous: its seven Pacific jurisdictions include American Samoa, the Commonwealth of the Northern Marianas Islands, the Federated States of Micronesia, Guam, Hawaii, the Republic of the Marshall Islands, and the Trust Terroritory of the Pacific, also known as the Republic of Palau. These Pacific jurisdictions are located throughout a vast area of the Pacific Ocean covering distances greater than the length and breadth of the U.S. mainland. The State of Hawaii, with a longitude of 155 W and latitude of 20 N, is the most northerly and easterly of the jurisdictions; the Republic of Palau is the farthest west at longitude 135 E, while American Samoa is the most southerly at latitude 14 S.

Its my belief that establishing a field office in Hawaii would measurably aid FEMA in servicing the victims of disasters in the South Pacific. Because Hawaii is 2,400 miles closer to FEMA's South Pacific responsibilities than the San Francisco regional office, such a facility would improve the agency's response to disasters occurring in these areas, if only in terms of reducing travel time and easing the physical and mental toll such travel must take on FEMA personnel and their ability to perform at maximum efficiency. Recent experience clearly demonstrated the difficulty FEMA had in dispatching its employees to hardship areas in the Federated States of Micronesia and Palau. Proximity would also facilitate contacts with local governments, aid in identifying local volunteers and disaster reservist workers, encourage provision of services in a more balanced, culturally and linguistically appropriate manner, and enhance coordination of disaster functions with other federal agencies with disaster responsibilities in the area, such as CINCPAC, the Coast Guard, the Army Corps of Engineers, or the Department of the Interior, all of which have a significant presence in Hawaii and are vital to FEMA's preparedness, response, and recovery efforts.

Mr. President, the recent General Accounting Office [GAO] report entitled "Disaster Assistance: Federal, State, and Local Response to Natural Disasters Need Improvement," which evaluated FEMA's response to Hurricane Hugo and the Loma Prieta earthquake, clearly points out that FEMA requires more staffing throughout the system, particularly in geographically distant areas. Chapter 3 of the report states:

> FEMA's staffing inadequacies were most visible in the Caribbean shortly after Hugo struck. FEMA's New York regional office, which is responsible for the Caribbean, initially deployed a small crew of managers to Puerto Rico and the Virgin Islands with little equipment or other resources. Unprepared for the level of devastation, this crew was overwhelmed by the work needed to establish offices, coordinate with other agencies, and begin the response and recovery efforts.

The report also noted that FEMA did not have sufficient bilingual staff on hand to deal with Hugo's victims in the Caribbean, which further hampered the relief effort.

It is obvious from the GAO study that FEMA needs to have additional, appropriately trained staff who are placed closer to potential disaster sites. FEMA's experience in the Caribbean is applicable to the South Pacific, which arguably has a greater need for FEMA resources than any other region, including the Caribbean. Indeed, the Insular Pacific region has more cultural and linguistic variances than any I can think of, covering a far larger geographic area, consequently presenting FEMA with a significantly greater logistical and administrative problem. Many other agencies with far fewer responsibilities have established representation in the area.

Mr. President, the need for a satellite office to meet the unique needs of the State of Hawaii is also clear cut. First, Hawaii suffers from one to two natural disasters a year, and an additional five or six lesser events about which FEMA is consulted or advised; a permanent agency staff in the islands would make it much easier for FEMA and the relevant State officials to coordinate efforts to address these emergencies as well as participate in joint exercises and training seminars.

Second, the Kilauea Volcano disaster on the Big Island requires constant attention because of its unique, ongoing nature; as my colleagues may be aware, the length of eruptions cannot be accurately predicted—some go on for hundreds of years. In addition, the unpredictability and potential violence of volcanic lava flows—so tragically illustrated in yesterday's eruption of Mount Unzen in southern Japan which killed at least a dozen people—may require a level of response from FEMA that is immediate rather than merely soon.

Third, the fact that units of government in Hawaii are organized differently from those on the mainland—into island size counties that function similar to mainland cities—requires special consideration from FEMA. The agency must develop special expertise, first-hand knowledge, and close contact with Hawaii's Civil Defense in order to make FEMA's system work effectively in the Hawaiian legal and administrative environment. For example, traditional State and interstate "mutual aid" as practiced in the mainland does not work the same in the islands. Staffing and logistics support mechanisms present certain obstacles given the great distances from California, all of which may be affected by natural or artificial hazards.

Finally, FEMA must improve its working relationship with other Federal agencies already established in Hawaii, particularly two I have already mentioned, CINCPAC and the Corps of Engineers. Both of these military resources are called upon and employed frequently in support of Presidential disaster declarations, both in Hawaii and in the Pacific Insular area. The need for an ongoing, close working relationship is obvious. Also, a number of academic and political organizations with which FEMA works closely are located in Hawaii, such as the East-West Center and the Pacific Basin Development Council.

Mr. President, I truly regret the need for this legislation, which I estimate will cost less than half a million dollars annually. I had originally hoped that FEMA would take the initiative in establishing a permanent presence in Hawaii to serve the Pacific region on its own, without the necessity for congressional intervention, but this has not come to pass.

I first asked Director Wallace Stickney to consider the initiative seriously during his confirmation hearings before the Senate Governmental Affairs Committee last summer, shortly after the President had formally declared the Kalapana area of Hawaii a disaster area in the wake of renewed activity by Kilauea Volcano. Soon after, in August 1990, the results of a committee oversight hearing I chaired in Hawaii on FEMA's activities with respect to the Kalapana disaster further convinced me that the ongoing nature of the emergency required more than a transient agency presence in the State. I therefore wrote the Director in January formally asking him to consider establishing a FEMA satellite office in Hawaii.

Unfortunately, Mr. President, FEMA's response to my request is a perfect example of our Government's often bizarre, catch-22 mentality. Signed by Associate Director Grant Peterson, FEMA's reply stated that the Agency agreed with my contention "that the Pacific has been one of the

most disaster prone regions for which FEMA has responsibility for providing disaster assistance," and that it planned to conduct a study of the feasibility of permanent staff presence in Hawaii. However, Mr. Peterson then went on to say that "due to the current disaster workload in the Pacific, FEMA resources are strained in our Region IX office in San Francisco, which has responsibility for the Pacific area, and it is not possible at this time to devote the time or staff necessary for a complete and comprehensive study on the feasibility of opening a permanent field office in Hawaii.

Mr. President, my inquiry itself has clearly shown the need for permanent representation. FEMA's absurd response in effect says that, "we have a problem, but because we have a problem, we don't have the time or resources to look at a solution to the problem." This argument is also absurd for two other reasons: First, the savings FEMA would incur from not having to fly as many staff from San Francisco and other regions to various points in the Pacific—and the inevitable adverse effect of such travel on staff efficiency—alone would offset much of the cost of establishing and maintaining a permanent staff in Hawaii. Second, FEMA is already establishing a satellite office in Puerto Rico to serve the Caribbean region, and has advertised for positions to fill the office. Without taking anything away from the need for a Puerto Rico office, the need for a satellite office in the Pacific is at least as great, if not greater. Yet, while a Puerto Rico office is being established, Hawaii with its greater need is not. Frankly, this does not reflect well on FEMA's ability to develop intelligent, consistent policies.

Needless to say, I am very disappointed by FEMA's inaction on this issue. It takes only common sense to understand that establishing a FEMA field office in Hawaii would vastly improve the agency's operational efficiency in the Pacific region. Indeed, as I have said, the facility would likely help pay for itself in transportation savings. I am beginning to wonder whether FEMA's unwillingness or inability to carry out an initiative of this size may extend to larger matters that may affect the safety not only of the Pacific region, but of all other regions as well. I sincerely hope not, Mr. President.

Thank you, Mr. President. I urge my colleagues to support this small, but important measure, which would mean so much for the welfare of disaster victims throughout the Pacific area.●

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 1218. A bill to enhance the conservation of exotic wild birds; to the Committee on Environment and Public Works.

S. 1219. A bill to enhance the conservation of exotic wild birds; to the Committee on Environment and Public Works.

CONSERVATION OF EXOTIC WILD BIRDS

● Mr. BAUCUS. Mr. President, today Senator CHAFEE and I, and Representatives STUDDS and BIELENSON, are introducing legislation to conserve wild populations of parrots and other exotic birds, to provide humane treatment of these birds during capture and transport, and to improve the process of importing and quarantining these birds.

The United States is the world's largest consumer of wild-caught exotic birds. We bring into this country each year more than 500,000 parrots and other birds that are taken from the wild.

International trade in many wild-caught, exotic birds species for use as pets is not sustainable, and this trade, in conjunction with habitat destruction and local use, is contributing to a significant decline in these species throughout the world. Consequently, the United States has a responsibility, as the largest market for exotic, wild-caught birds, to eliminate its imports of these birds.

Many nations have partially or totally restricted their exports of live indigenous bird species, but other nations, principally from Argentina, Guiana, Honduras, Tanzania, Senegal, and Indonesia, continue to supply large numbers of wild-caught birds for the international pet trade.

The Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora [CITES] in 1976 urged exporting countries to restrict gradually the collection of wild animals for the pets trade, and recommended that all contracting Parties, including the United States, encourage the breeding of animals for this purpose with the objective of eventually limiting the keeping of pets to those species which can be bred in captivity.

Today, however, current international trade control mechanisms remain inadequate. They are not based on a review of U.S. trade data or on a review of the status of the species in the wild. In addition, many exporting nations lack sufficient resources to adequately assess the effects of trade on their wild avian populations and rare, therfore, unable to determine whether their exports are detrimental to the species in the wild.

Conservation of these wild avian species will be promoted by encouraging the purchase of captive-bred exotic birds for the pet market in lieu of wild-caught birds and facilitating domestic and foreign captive breeding of exotic avian species, thereby reducing the demand for wild-caught exotic birds in the United States and relieving the pressure on wild populations of exporting countries.

Although some efforts have been successful in reducing mortality of birds during transport to and quarantine in the United States, import-associated mortality remains a serious concern.

Clearly, the effectiveness of current Federal regulations and procedures implementing the wildlife trade control provisions of the Endangered Species Act, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Lacey Act, the Animal Welfare Act, and other Federal statutes, and the division of agency responsibilities created thereby, needs to be improved.

Three years ago, the World Wildlife Fund convened a Cooperative Working Group on Bird Trade made up of a wide range of organizations with a common interest in the conservation and humane treatment of birds, including conservation groups, aviculturists, the pet industry, and zoological interests.

In April 1991 most of the members of the Working Group World Wildlife Fund, American Association of Zoological Parks and Aquariums, American Pheasant and Waterfowl Society, Association of Avian Veterinarians, American Federation of Aviculture, International Council for Bird Preservation, National Audubon Society, Pet Industry Joint Advisory Council, and TRAFFIC [USA]—reached agreement on a draft bill to create a comprehensive Federal program to regulate imports and transfers of exotic wild birds.

I am pleased today to sponsor, with Senator CHAFEE and my colleagues in the House, a slightly modified version of this legislation drafted by the Working Group.

Under this legislation, imports of exotic, wild-caught birds for the pet trade would be phased out over the next 5 years and captive breeding efforts would be encouraged. Consequently, the bill seeks to curtail the adverse effects of international trade on wild bird populations while preserving a supply of imported birds for aviculture and captive-bred birds for the domestic pet market.

The bill also would decrease mortality and improve humane treatment and health care of exotic wild birds by reforming the process by which these birds are imported. And it would encourage the public to purchase captive-bred birds in lieu of wild-caught birds.

I also am joining Senator CHAFEE in introducing a modified version of a bill that also is being introduced today in the House by Representatives STUDDS and BEILENSON and supported by Defenders of Wildlife, the Humane Society of the United States, the ASPCA, the Animal Welfare Institute, the International Wildlife Coalition, and the Environmental Investigation Agency.

This second bill would place an immediate ban on the importation of wild-caught birds for pets.

The bill also would require marking of all birds bred in captivity to aid consumers in distinguishing between wild-caught birds and captive-bred birds.

And the bill would require that persons who import wild-caught birds for captive breeding show that wild populations of those birds will not be affected adversely by their importation.

Both of the bills I am sponsoring share the goal that the trade in wild birds for pets should be eliminated. The bills, however, take different approaches toward achieving this goal which will have to be resolved in the coming months.

Nevertheless, I am confident that we will succeed in this effort, and that we will enact legislation in this Congress that places the United States at the forefront of international efforts to conserve the wild birds of this planet.●

● Mr. CHAFEE. Mr. President, I am pleased to join Senator BAUCUS in sponsoring legislation to restrict capture and trade in wild birds. This trade, together with the destruction of habitat, threatens the continued existence of many species of exotic birds and has already driven several species, such as macaws and cockatoos, to the brink of extinction. As the world's largest importer of these wild, exotic birds, it is essential that the United States act quickly to put an end to this destructive trade.

Many States and organizations, including the pet industry, share concern over our Nation's contribution to the decline in wild bird populations throughout Africa, Central and South America and Asia, and are working together to curtail imports of wild birds for the pet trade. Senator BAUCUS and I are introducing two bills today that, while they differ in the particulars, both seek the same goal: conservation of exotic wild birds. Similar bills are being introduced by Representative STUDDS in the House of Representatives. Both bills are the product of compromise and difficult negotiations and, as the Congress considers these bills, I hope we can reach consensus on the best approach.

There are many disturbing aspects of the wild bird trade. A shocking percentage—bordering on 50 percent—of these birds die during capture, holding and shipment. Further, the Department of Justice has estimated that 150,000 exotic birds are smuggled across the Mexican border each year. Given that legal imports of these birds hover around half a million, the large number of birds that are being illegally smuggled across just one of our borders is particularly troublesome.

Exotic birds are popular pets in America and it is by no means our intention to eliminate this option. The answer lies in captive breeding. Captive breeding efforts have increased in recent years and it is likely that U.S. aviculturists will soon be able to supplant the wild-caught stocks with their own. At this time, captive-bred birds are generally more expensive than their wild-caught counterparts, a condition which favors exploitation of wild birds.

Ironically, pet store operators and pet owners report that captive bred birds are better-behaved and are often worth the price differential when it comes to making good pets. In New York State, where a 1984 law prohibits the sale of wild-caught exotic birds, many bird store owners confirm that customers prefer the same tame, captive-bred birds.

While most commercially desirable species are available through captive breeders, a few are not. That, and the desire to encourage bird-breeding programs, is why the legislation being introduced today allows for the continued import of wild birds as necessary for the stocking of captive breeding efforts.

Over the past few years, U.S. imports of wild birds have declined significantly. This is likely a result of public awareness regarding the rapid depletion of wild bird populations and, the increased availability of captive-bred stocks. I believe this trend indicates that the American people are ready to support legislation to stop trade in wild birds.

Mr. President, many of the wild birds supplying the pet trade are already recognized internationally as problem species because it is clear that trade is detrimentally affecting their survival or, in many cases, because there is simply inadequate information to determine the status of the species in the wild. I urge my colleagues to get behind this effort to promote the conservation of wild birds and to support this legislation that will end the importation and sale of these birds as pets.●

By Mr. DECONCINI (for himself, Mr. GRASSLEY, Mr. PELL, Mr. STEVENS, Mr. WALLOP, Mr. LUGAR, Mr. PRESSLER, Mr. BRADLEY, Mr. CRAIG, Mr. D'AMATO, Mr. GLENN, Mr. SASSER, Mr. KERRY, Mr. SIMON, Mr. DIXON, Mr. KENNEDY, Mr. MITCHELL, Mr. COHEN, Mr. ROBB, Mr. MOYNIHAN, Mr. JEFFORDS, Mr. RIEGLE, Mr. LAUTENBERG, Mr. KOHL, Mr. BROWN, Mr. CHAFEE, Mr. METZENBAUM, Mr. ROCKEFELLER, Mr. CONRAD, Mr. COCHRAN, Mr. SARBANES, Mr. BRYAN, Mr. BIDEN, Mr. DODD, Ms. MIKULSKI, Mr. JOHNSTON, Mr. WARNER, Mr. THURMOND, Mr. NUNN, Mr. PACKWOOD, Mr. DOLE, Mr. HATCH, Mr. BREAUX, Mr. LIEBERMAN, Mr. ADAMS, Mr. MURKOWSKI, Mr. SPECTER, Mr. REID, Mr. HOLLINGS, Mr. SHELBY, Mr. DOMENICI, Mr. HATFIELD, Mr. GORE, and Mr. CRANSTON):

S.J. Res. 154. Joint resolution to designate August 1, 1991, as "Helsinki Human Rights Day"; to the Committee on the Judiciary.

HELSINKI HUMAN RIGHTS DAY

● Mr. DECONCINI. Mr. President, as cochairman of the Commission on Security and Cooperation in Europe, known as the Helsinki Commission, I am pleased to introduce today, together with 50 of my colleagues, a joint resolution that authorizes and requests the President of the United States to designate August 1, 1991, as "Helsinki Human Rights Day."

Sixteen years ago, on August 1, 1975, representatives from 35 countries joined together in signing the final act of the Conference on Security and Cooperation in Europe [CSCE], commonly referred to as the Helsinki accords. This agreement covers every aspect of East-West relations, including military security, scientific and cultural exchanges, trade and economic cooperation, as well as human rights and human contacts.

The CSCE participating states, which include all European States, except at this time Albania, the Union of Soviet Socialist Republics, Canada and the United States, have made a commitment to adhere to the principles of human rights and fundamental freedoms as embodied in the Helsinki accords. The principles contained in these accords require the participating states to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language, or religion." They further address a principle which is central to the underlying purpose of the Helsinki agreement; the unrestrained movement of people, ideas and information.

My colleagues and I are introducing Helsinki Human Rights Day in a greatly changed climate. With the dramatic historical changes in Central and Eastern Europe and the Union of Soviet Socialist Republics, we have witnessed substantial improvements in compliance by many signatory states, though problems persist.

There can be little doubt that the Helsinki process, in general, has been instrumental in focusing attention on human rights. As a result, it has improved tangibly the lives of millions of people. The flow of people and ideas is gradually widening, and the prison gates have opened to those who were previously sentenced for calling on their governments to live up to their commitments under the Helsinki accords. The once formidable intellectual, spiritual, and physical barriers between East and West are now weak and slowly crumbling.

These changes are dynamic. A decade ago, many Americans placed lighted

candles in their windows to protest the imposition of martial law in Poland and the outlawing of Solidarity. Today, a former chairman of Solidarity is President of Poland.

Vaclav Havel, a world-renowned Czechoslovak playwright, spent time in prison for his human rights activities. Today, he is Czechoslovakia's freely elected President. The Berlin Wall has crumbled and the two German States have been unified. Free and fair elections have been held throughout Central and Eastern Europe and the Soviet Union.

Just recently, the Soviet Union passed in principle a far-reaching and eagerly awaited law on entry and exit for its citizens. It is our hope that the Soviet Government will move quickly to implement this historic legislation and to permit the remaining refusenik families to leave the Soviet Union.

On November 21, 1990, representatives from the signatory states signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the states signing the Helsinki accords.

These improvements are a testament to the efficacy of the Helsinki process and are, according to many leading Eastern Europeans, in part due to the consistent and persistent pressure from the West and from the United States Congress. We can be proud of our record of strong support for the Helsinki process, and one of the reflections of our support has been the annual Helsinki Human Rights Day resolution.

Despite the positive changes that have taken place since the Helsinki accords were signed, our goal toward the realization of an ultimately free, open, and humane Europe has not been met. CSCE faces new challenges—to expand and firmly root democratic pluralism, to encourage market economies, and to ensure minority rights and self-determination.

We believe it is important, therefore, that the President reaffirm the United States commitment to the Helsinki accords and convey to all signatories that respect for human rights and fundamental freedoms is a vital element of continuing progress in the ongoing Helsinki process.

This resolution requests the President to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any CSCE State which may be in violation. It further requests the President, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing address the major problems that remain, including the question of self-determination of peoples.

By proclaiming August 1, 1991, as "Helsinki Human Rights Day," we reaffirm our commitment to the principles governing the Helsinki accords, principles that mirror those upon which our own Constitution is based.

I urge each Member of this body to support this joint resolution and I ask unanimous consent that the text be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 154

Whereas August 1, 1991, is the sixteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the Helsinki accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have recognized that respect for human rights is an essential aspect for the protection of the environment and for economic prosperity;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States have affirmed that the "ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right to freely express, preserve and develop that identity without any discrimination and in full equality before the law";

Whereas the participating States recognize that "democratic government is based on the will of the people, expressed regularly through free and fair elections; and democracy has as its foundation respect for the person and the rule of law; and democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person";

Whereas on November 21, 1990, the heads of state or government from the signatory States signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the States signing the Helsinki accords;

Whereas the Conference on Security and Cooperation in Europe has made major contributions to the positive developments in Eastern and Central Europe and the Union of Soviet Socialist Republics, including greater respect for the human rights and fundamental freedoms of individuals and groups;

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States; and

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1991, the sixteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory States to bide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory State which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain, including the question of self-determination of peoples.

SEC. 2. The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors to the United States of the other thirty-three Helsinki signatory States.●

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S.J. Res. 155. Joint resolution commemorating the 250th anniversary of the arrival of Vitus Bering in America; to the Committee on the Judiciary.

THE 250TH ANNIVERSARY OF THE ARRIVAL OF VITUS BERING IN AMERICA

Mr. STEVENS. Mr. President, I rise today to introduce a joint resolution to pay tribute to an event of great historical significance to our country: The 250th anniversary of the Vitus Bering expedition to America.

Upon arriving in Alaska in 1741, Bering had achieved an important goal: he found a link between Asia and America. In a period of relatively rapid expansion, beginning with settlements built in the Aleutian Islands to those on Kodiak Island and in Puget Sound, the Russians firmly established their culture, trade, and religion on the North American Continent.

The Russians left our continent in 1867 after Secretary Seward successfully negotiated the purchase of Alaska which became a territory of the United States. The legacy and traditions of the Russian culture live on. Today, not only do we share a cultural heritage in the Arctic, the ties which have bound our Nations together are becoming stronger. As our relationship with the Soviet Union has warmed, tourism and cultural interaction between our countries is beginning to thrive. My resolution would not only celebrate the arrival of Vitus Bering in America, it welcomes our new relationship with the Soviet Union.

Mr. MURKOWSKI. Mr. President, I rise today to commemorate the 250th anniversary of the departure from Kamchatka of the Bering expedition to Alaska. The U.S.S.R. Russian America Committee in Vladivostok will be issuing a proclamation concerning the anniversary to the peoples and Governments of the U.S.S.R. and the United States simultaneously with this resolution.

The U.S. Bering/Chirkov-91 Committee of the Alaska Historical Society is planning jubilee events in Sitka, Cordova, Kodiak, and Unalaska with an international conference in Anchorage in August. In the Soviet Union, celebrations will be taking place in Vladivostok, Petropavlovsk-Kamchatka, Irkutsk, and Bering Island.

The history of this significant voyage in the late 1700's is fascinating. In the summer of 1741, Peter the Great sent vitus Bering, a captain in the Russian Imperial Navy, to explore the ocean between Russia and America. Bering set out in the *St. Peter* with Lt. Alexaii Chirikov cocaptaining a sister vessel, the *St. Paul*. The two vessels left Petropavlovsk in Kamchatka on June 4, 1741. They were soon separated on June 20. The two independently found land in July 1741. They discovered the coast of southeastern Alaska, portions of its southern coast, and some of the Aleutian Islands.

Chirikov's vessel became lost and he and his crew returned that summer to Kamchatka. Bering's ship wrecked on Bering Island, and the crew was forced to spend the winter there. Bering and half of his crew died of scurvy that winter. The survivors managed to repair the ship and return to Kamchatka the next summer. These voyages were the beginning of the Russian discovery of America.

On the *St. Peter* was an extraordinary man, Georg Wilhelm Steller. He was a German naturalist and a member of the Imperial Academy of Sciences. While on the voyage, he visited Kayak Island and the Shumagin Islands. He gathered and recorded information and specimens invaluable to future naturalists. During the crew's 8 months on Bering island, he found a cure for scurvy from local herbs and roots, and saved some of the dying crew. He left descriptions of the arctic fox, the sea otter, the now-extinct sea cow, and a bird named after him, the Steller Jay.

Alaska's heritage is filled with Russian history. Alaska's Russian history and the 250th anniversary of Bering's momentous and daring voyage to Alaska will be celebrated in Alaska and Siberia this summer. Alaskans and Siberians are working together to melt the ice curtain across the Bering Strait. Joint efforts like these help to bring Alaskans and Siberians together, which will in turn increase trade and tourism through the creation of joint ventures. The future of Alaskan-Siberian relations might lie in the discovery and celebration of its past.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. PRESSLER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, fiscal year 1989.

S. 183

At the request of Mr. HELMS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 183, a bill to amend title 18, United States Code, to establish fair competition between the private sector and the Federal Prison Industries.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 280

At the request of Mr. DOLE, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of nondeposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

At the request of Mr. SASSER, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 280, supra.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 499

At the request of Mr. LUGAR, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 499, a bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 614

At the request of Mr. DASCHLE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 614, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 619

At the request of Mr. BRADLEY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 619, a bill to establish a Link-up for Learning demonstration grant program to provide coordinated services to at-risk youth.

S. 679

At the request of Mr. BRADLEY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 679, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to reduce the cost of energy conservation service and measures.

S. 765

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 840

At the request of Mr. DURENBERGER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 840, a bill to amend the Internal Revenue Code of 1986 to provide a simplified method for computing the deductions allowable to home day care providers for the business use of their homes.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Louisiana

[Mr. JOHNSTON] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 849

At the request of Mr. LIEBERMAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 849, a bill to amend the Emergency Planning and Community Right-To-Know Act of 1986.

S. 860

At the request of Mr. SIMON, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 860, a bill to support democracy and self-determination in the Baltic States and the republics within the Soviet Union.

S. 879

At the request of Mr. DASCHLE, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Indiana [Mr. LUGAR], the Senator from Arizona [Mr. MCCAIN], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 911

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 911, a bill to amend the Public Health Service Act to expand the availability of comprehensive primary and preventative care for pregnant women, infants and children and to provide grants for home-visiting services for at-risk families, to amend the Head Start Act to provide Head Start services to all eligible children by the year 1994, and for other purposes.

S. 964

At the request of Mr. MCCAIN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 964, a bill to establish a Social Security Notch Fairness Investigatory Commission.

S. 1021

At the request of Mr. MCCAIN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1021, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of long-term care insurance and accelerated death benefits, and for other purposes.

S. 1035

At the request of Mr. SIMON, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1035, a bill to amend section 107 of title 17, United States Code, relating to fair use with regard to unpublished copyrighted works.

S. 1087

At the request of Mr. HARKIN, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1087, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the flag.

S. 1107

At the request of Mr. SHELBY, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1107, a bill to amend title 38, United States Code, to provide for the payment, on an interim basis, of compensation, dependency, and indemnity compensation, and pension to veterans and their survivors and dependents if their claims for those benefits are not decided by the Department of Veterans Affairs within specified time limits.

S. 1130

At the request of Mr. KASTEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1130, a bill to amend the Internal Revenue Code of 1986 to provide for rollover of gain from sale of farm assets into an individual retirement account.

S. 1160

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1160, a bill to amend and extend programs under the Urban Mass Transportation Act of 1964.

S. 1197

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act concerning family planning and to provide for the availability of information and counseling regarding pregnancies, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. JOHNSTON, the names of the Senator from Montana [Mr. BURNS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 6, a joint resolution to designate the year 1992 as the "Year of the Wetlands."

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the names of the Senator from Montana [Mr. BURNS, the Senator from South Carolina [Mr. HOLLINGS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Idaho [Mr. SYMMS), The Senator from Connecticut [Mr. LIEBERMAN], the Senator from Arizona [Mr. DECONCINI], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Kansas [Mr. DOLE], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, the November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 36

At the request of Mr. PRESSLER, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 72

At the request of Mr. SPECTER, the names of the Senator from California [Mr. CRANSTON], the Senator from Texas [Mr. BENTSEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. ADAMS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Utah [Mr. HATCH], the Senator from New York [Mr. D'AMATO], the Senator from Georgia [Mr. FOWLER], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 72, a joint resolution to designate the week of September 15, 1919, through September 21, 1991, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 73

At the request of Mr. SPECTER, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 73, a joint resolution designating October 1991 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 74

At the request of Mr. LIEBERMAN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from New Jersey [Mr. BRADLEY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Dakota [Mr. DASCHLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Florida [Mr. GRAHAM], the Senator from Iowa [Mr. GRASSLEY], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from Michigan [Mr. LEVIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Michigan [Mr. RIEGLE], the Senator from Tennessee [Mr. SASSER], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from

South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 74, a joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 95

At the request of Mr. PELL, the names of the Senator from Nebraska [Mr. EXON], the Senator from Arizona [Mr. DECONCINI], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 95, a joint resolution designating October 1991 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 107

At the request of Mr. MOYNIHAN, the names of the Senator from Washington [Mr. ADAMS], the Senator from North Dakota [Mr. BURDICK], the Senator from Montana [Mr. BURNS], the Senator from North Dakota [Mr. CONRAD], the Senator from Kansas [Mr. DOLE], the Senator from Washington [Mr. GORTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. PELL], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 107, a joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day."

SENATE JOINT RESOLUTION 115

At the request of Mr. MOYNIHAN, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Nevada [Mr. BRYAN], the Senator from Rhode Island [Mr. PELL], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 115, a joint resolution to designate the week of June 10, 1991 through June 16, 1991, as "Pediatric AIDS Awareness Week."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Delaware [Mr. BIDEN], the Senator from South Carolina [Mr. THURMOND], the Senator from Washington [Mr. GORTON], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. CONRAD], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], the Senator from Florida [Mr. GRAHAM], the Senator from Connecticut [Mr. DODD], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Kentucky [Mr. FORD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Oregon [Mr. PACKWOOD], the Senator from North Carolina [Mr. SANFORD], the Senator from Rhode Island [Mr. PELL], the Senator from Missouri [Mr. DANFORTH], the Senator from Michigan [Mr. RIEGLE], the Senator from Indiana [Mr. COATS], the Senator from Florida [Mr. MACK], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 125

At the request of Mr. SIMON, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. PELL], the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of Senate Joint Resolution 125, a joint resolution to designate October 1991 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 126

At the request of Mr. HATFIELD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 126, a joint resolution to designate the second Sunday in October of 1991 as "National Children's Day."

SENATE JOINT RESOLUTION 130

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois [Mr. SIMON], the Senator from Hawaii [Mr. AKAKA], the Senator from Iowa [Mr. GRASSLEY], the Senator from Wisconsin [Mr. KASTEN], the Senator from Wisconsin [Mr. KOHL], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Idaho [Mr. CRAIG], the Senator from Montana [Mr. BURNS], the Senator from Missouri [Mr. DANFORTH], the Senator from Tennessee [Mr. SASSER], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Indiana [Mr. COATS], the Senator from Colorado [Mr. BROWN], the Senator from North Carolina [Mr. HELMS], the Senator from Missouri [Mr. BOND], and the Senator from Tennessee [Mr. GORE], were added as cosponsors of Senate Joint Resolution 130, a joint resolution to designate the second week in June as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 133

At the request of Mr. HOLLINGS, the name of the Senator from North Carolina [Mr. SANFORD], was added as a cosponsor of Senate Joint Resolution 133, a joint resolution in recognition of the 20th anniversary of the National Cancer Act of 1971 and over 7 million survivors of cancer alive today because of cancer research.

SENATE JOINT RESOLUTION 144

At the request of Mr. D'AMATO, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Alabama [Mr. SHELBY], were added as cosponsors of Senate Joint Resolution 144, a joint resolution to designate May 27, 1991, as "National Hero Remembrance Day."

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. GLENN, the names of the Senator from Illinois [Mr. DIXON], the Senator from Mississippi [Mr. LOTT], the Senator from Maine [Mr. MITCHELL], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Tennessee [Mr. GORE], were added as cosponsors of Senate Concurrent Resolution 35, a concurrent resolution expressing the sense of the Congress that the awarding of contracts for the rebuilding of Kuwait should reflect the extent of military and economnic support offered by the United States in the liberation of Kuwait.

SENATE CONCURRENT RESOLUTION 40

At the request of Mr. D'AMATO, the names of the Senator from Tennessee [Mr. GORE], the Senator from Colorado [Mr. WIRTH], and the Senator from New York [Mr. MOYNIHAN], were added as cosponsors of Senate Concurrent Resolution 40, a concurrent resolution expressing the sense of the Congress that the Federal Republic of Germany and the Republic of Austria should take all applicable steps to halt the distribution of neo-Nazi computer games and prosecute anyone found in possession of these materials to the full extent of the law.

SENATE CONCURRENT RESOLUTION 41

At the request of Mr. PELL, the names of the Senator from Colorado [Mr. WIRTH], and the Senator from Tennessee [Mr. GORE], were added as cosponsors of Senate Concurrent Resolution 41, a concurrent resolution to express the sense of the Congress that Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Qinghai that have historically been a part of Tibet, is an occupied country under established principles of international law whose true representatives are the Dalai Lama and the Tibetan Government in exile as recognized by the Tibetan people.

SENATE RESOLUTION 123

At the request of Mr. KASTEN, the names of the Senator from New Hampshire [Mr. RUDMAN], the Senator from Arizona [Mr. MCCAIN], and the Senator from Montana [Mr. BURNS], were added as cosponsors of Senate Resolution 123, a resolution relating to State taxes for mail-order companies mailing across State borders.

SENATE CONCURRENT RESOLUTION 45—RELATIVE TO TRADE WITH THE SOVIET UNION

Mr. DECONCINI submitted the following concurrent resolution; which was referred to the Committee on Finance.

S. CON. RES. 45

Whereas the number of citizens being permitted to leave the Union of Soviet Socialist Republics shows a pattern of increased liberalization of the Soviet Government's emigration practices;

Whereas the Supreme Soviet has committed itself to fully respect the right of its citizens to leave and return to their country under the Helsinki Final Act, all Conference on Security and Cooperation in Europe commitments, and the International Convenants on Human Rights;

Whereas the President has determined that the Union of Soviet Socialist Republics has met the requisite conditions to justify a 12-month extension of the waiver authority under section 402(c) of the Trade Act of 1974; and

Whereas, despite passage of the Law on Entry and Exit by the Supreme Soviet of the Union of Soviet Socialist Republics on May 20, 1991, barriers to emigration still exist: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(a) It is the sense of the Congress that, before recommending in 1992 a waiver of the provisions of section 402 (a) and (b) of the Trade Act of 1974 (19 U.S.C. 2432 (a) and (b)) with respect to the Union of Soviet Socialist Republics, the President should take into consideration—

(1) whether each objective described in subsection (b) has been met with respect to the Union of Soviet Socialist Republics;

(2) whether each such objective will be met during the period of the waiver; and

(3) whether the law and the intent of the Union of Soviet Socialist Republics are in fact resulting in a sustained pattern of emigration and a cessation of hidden barriers to emigration.

(b) The objectives described in this subsection are as follows:

(1) All individuals, who for at least 5 years have been refused permission to emigrate from the Union of Soviet Socialist Republics, are given permission to emigrate.

(2) Restrictions on freedom of movement, including those pertaining to secrecy, are not being abused or applied in an arbitrary manner.

(3) A fair, impartial, and effective administrative or judicial appeals process exists for those who have been denied permission to emigrate.

(4) The Government of the Union of Soviet Socialist Republics is ensuring that its laws, regulations, practices, and policies conform with the Government's international obligations and commitments, including the relevant provisions of the Helsinki Final Act and all Conference on Security and Cooperation in Europe commitments.

Mr. DECONCINI. Mr. President, on June 3, 1991, President Bush made the decision to grant the Soviet Union a 1 year waiver of the Jackson-Vanik amendment to the 1974 Trade Act. This amendment linked U.S. Soviet trade to human rights by denying Communist countries most-favored-nation [MFN] trading status until they permitted substantive and sustained emigration. On December 29, 1990, President Bush notified House Speaker FOLEY that he was waiving the Jackson-Vanik restriction against the Soviet Union for 6 months. Until then, the United States had denied the Soviets MFN because of that country's flagrant violations of its international commitments to respect the right of its citizens to freedom of movement.

During the Gorbachev era and particularly in the last 2 years, however, we have been seeing a marked improvement in Soviet emigration practices. In 1989, according to statistics provided by the National Conference on Soviet Jewry, Jewish emigration was 71,217. That number more than doubled to 186,815 in 1990 and through the end of April 1991 those emigrating had reached 57,800.

On May 20, 1991, the Supreme Soviet, after several lengthy delays, passed in principle a new law on exit and entry from the Soviet Union. It is a law that leaves many questions unanswered and a law that will not even be fully implemented until January 1993.

Last December, Congressman STENY HOYER and I, as co-chairman and chairman of the Helsinki Commission, stated we would be willing to see MFN status granted to the Soviets under certain conditions: Increased emigration, an emigration law, good faith implementation of the law, and the release of long-term refuseniks.

As I mentioned, we have seen progress on all four points, but serious questions remain. For example, we have to ask why there are, 3 years after the signing of the Vienna concluding document of the conference on security and cooperation in Europe [CSCE], more than 150 long-term refusenik families. The Vienna concluding document specifically states that the signatory states will take "the necessary steps to find solutions as expeditiously as possible, but in any case within 6 months, to all applications based on the human contacts provisions of the Helsinki final act and the Madrid concluding document.

One such case is Leonid Kosharovsky, brother of former 17-year refusenik Yuli Kosharovsky. Leonid's wife and his two daughters were allowed to emigrate to Israel in February 1990. However, due to a second degree security classification from Leonid's work more than 10 years ago, Leonid is still denied permission to emigrate. I might add that the plant where Leonid worked was opened to American arms inspectors as part of the INF Treaty verification that was signed by the United States and Soviet Union on December 8, 1987.

Cases such as Leonid Kosharovsky's illustrate the arbitrary and cynical nature which still influences Soviet emigration policy when it comes to state secrets.

I have several concerns about the newly passed emigration law. Under the law, the Soviet Government can deny visas for up to 5 years to individuals who possess state secrets. While the law states that the limit should not exceed 5 years, it would allow a committee under the Soviet Cabinet of Ministers to extend the period of visa denial. Secrecy refuseniks attempting to appeal their visa denial could do so only once every 3 years.

The law would also continue the Soviet practice of requiring persons applying to emigrate to produce an affidavit stating that they owe no outstanding financial obligations to their parents or ex-spouse. Thus, citizens of legal age could have their emigration request blocked by their parents, or an ex-spouse.

A section of the new law also requires those persons subject to military service to serve their military term before being allowed to emigrate. This effectively denies a large segment of the Soviet population its right to freedom of movement.

Becaause the pattern of implementation remains so cloudy, I am introducing a Senate concurrent resolution that highlights those aspects of Soviet emigration policy that are still a serious cause for concern. Congressman HOYER is introducing identical legislation in the House.

My legislation sends a message to the Soviet Government that Soviet emigration policy will be judged according to the international commitments that government has pledged to honor. Between now and June of 1992, when a Jackson-Vanik waiver will again be addressed by Congress, the Soviets must demonstrate how sincere they are about implementing a truly free and just emigration policy.

The legislation I am introducing today expresses the sense of the Congress that the President should consider the following objectives before providing in 1992 a waiver of the Jackson-Vanik trade restrictions with respect to the Soviet Union.

First, all individuals who, for at least 5 years, have been refused permission to emigrate from the Soviet Union, are given permission to emigrate.

Second, restrictions on freedom of movement, including those pertaining to secrecy, are not being abused or applied in an arbitrary manner.

Third, a fair, impartial, and effective administrative or judicial appeals process exists for those who have been denied permission to emigrate.

Fourth, the Government of the Soviet Union is ensuring that its laws, regulations, practices, and policies conform with their obligations under international obligations and commitments, including the relevant provisions of the Helsinki Final Act and all Conference on Security and Cooperation in Europe [CSCE] commitments.

Mr. President, I urge all of my colleagues to support this resolution.

SENATE RESOLUTIONS 135—AMENDING THE STANDING RULES OF THE SENATE

Mr. HOLLINGS (for Mr. MITCHELL) submitted the following resolution; which was considered and agreed to:

S. RES. 135

Resolved, That paragraph 2 of rule XXV of the Standing Rules of the Senate is amended as follows:

Strike "16" after "Environment and Public Works" and insert in lieu thereof "17".

Strike "18" after "Foreign Relations" and insert in lieu thereof "19".

Strike "14" after "Government Affairs" and insert in lieu thereof "13".

That paragraph 3 (a) of rule XXV of the Standing Rules of the Senate is amended for the One Hundred Second Congress as follows:

Strike "18" after "Small Business" and insert in lieu thereof "19".

SENATE RESOLUTION 136—MAKING CERTAIN MAJORITY COMMITTEE APPOINTMENTS

Mr. HOLLINGS (for Mr. MITCHELL) submitted the following resolution; which was considered and agreed to:

S. RES. 136

Resolved, That the Senator from Pennsylvania (Mr. WOFFORD) is hereby appointed to serve as a member on the Committee on Environment and Public Works, the Committee on Foreign Relations, and the Committee on Small Business.

SENATE RESOLUTION 137—MAKING A MINORITY PARTY APPOINTMENT TO THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HOLLINGS (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Resolved, That the following Senator (Mr. Chafee) shall be added to the minority party's membership on the Senate Committee on Banking, Housing, and Urban Affairs for the One Hundred Second Congress until November 6, 1991.

AMENDMENTS SUBMITTED

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

PRESSLER (AND OTHERS) AMENDMENT NO. 280

Mr. PRESSLER (for himself, Mr. GRASSLEY, Mr. SASSER, Mr. BAUCUS, Mr. BURDICK, Mr. CONRAD, Mr. WELLSTONE, Mr. ROCKEFELLER, Mr. SIMPSON and Mr. DASCHLE) proposed an amendment to the bill (S. 173) to permit the Bell Co. to conduct research on, design, and manufacture telecommunications equipment, and for other purposes, as follows:

On page 8, line 12, strike "and".

On page 8, line 15, insert "regulated" immediately after "all".

On page 8, line 18, immediately after "equipment", insert a comma and "including software integral to such telecommunications equipment including upgrades,".

On page 9, line 1, strike "other" and insert in lieu thereof regulated local exchange telephone carrier".

On page 9, line 3, immediately after "equipment", insert a comma and "including software integral to such telecommunications equipment' including upgrades".

On page 9, line 3, immediately "manufacture", insert "for use with the public telecommunications network".

On page 9, line 5, insert "purchasing" immediately before "carrier", and strike the period and insert in lieu thereof a semicolon.

On page 9, between lines 5 and 6, insert the following:

"(9)(A) such manufacturing affiliate shall not discontinue or restrict sales to other regulated local telephone exchange carriers of any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, that such affiliate manufactures for sale as long as there is reasonable demand for the equipment by such carriers; except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit under a marginal cost standard implemented by the Commission on the sale of such equipment;

"(B) in reaching a determination as to the existence of reasonable demand as referred to in subparagraph (A), the Commission shall within sixty days consider—

"(i) whether the continued manufacture of the equipment will be profitable;

"(ii) whether the equipment is functionally or technically obsolete;

"(iii) whether the components necessary to manufacture the equipment continue to be available;

"(iv) whether alternatives to the equipment are available in the market; and

"(v) such other factors as the Commission deems necessary and proper;

"(10) Bell Telephone Companies shall, consistent with the antitrust laws, engage in joint network planning and design with other regulated local telephone exchange carriers operating in the same area of interest; except that no participant in such planning shall delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment; and

"(11) Bell Telephone Companies shall provide, to other regulated local telephone exchange carriers operating in the same area of interest, timely information on the planned, deployment of telecommunications equipment, including software integral to such telecommunications equipment, including upgrade;

On page 9, strike all on lines 20 through 24.

On page 10, line 1, strike "(4)" and insert in lieu thereof "(3)".

On page 11, line 7, insert "(1)" immediately after "(h)".

On page 11, between lines 13 and 14, insert the following:

"(2) Any regulated local telephone exchange carrier injured by an act or omission of a Bell Telephone Company or its manufacturing affiliate which violates the requirements of paragraph (8) or (9) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequences of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 through 209.

CABLE TELEVISION CONSUMER PROTECTION ACT

GORTON AMENDMENT NO. 281

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, as follows:

At the appropriate place, insert the following:

SEC. . Section 623 of the Communications Act of 1934 (47 U.S.C. 543), as amended by this Act, is further amended by adding at the end the following new subsection:

"(i) A cable operator shall not charge a subscriber for any video programming that the subscriber has not affirmatively requested. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such programming shall not be deemed to be an affirmative request for such programming.".

Mr. GORTON. Mr. President, the Senate Commerce Committee recently considered and approved S. 12, the Cable Television Consumer Protection Act. I am a cosponsor of this bill and strongly believe in the need to encourage competition to the local cable monopoly. Unlike virtually any other business operating in the United States today, cable companies have the ability to charge rates and provide services without either the check of government regulation or the check provided by similarly competing companies.

Many of us have heard from our constituents who are tired of both high rates and poor service. We receive letters every week from cable subscribers who do not believe they should be charged for converter boxes or second outlets.

Soon, Mr. President, our mailboxes will be flooded by a new wave of consumer complaints about the cable companies latest marketing ploy. TCI, the largest cable company, has dreamed up a brilliant new strategy designed to assure a high viewership of its newest movie channel called Encore. TCI expects that it may get 60 or 70 percent of all their subscribers to take this new service. This marketing strategy is dependent upon one simple premise—that the consumer either will not even realize that he or she is subscribing to Encore or will not bother to act to prevent charges from accruing to his or her monthly bill.

You might ask, "how could the consumer possibly be unaware of a new service he has purchased?" Quite simply. Under TCI's new plan, you automatically buy the service, unless you call up the TCI office and cancel it! This practice, which fortunately is no longer used by most businesses, is known as a negative option. Its success relies on the fact that most customers do not scrutinize their junk mail and bill inserts with a fine tooth comb.

I have the unusual distinction, Mr. President, of having received two such

negative options, one in Seattle and one here in Washington, DC, an option which I suggest every other Member of this body who lives in the District of Columbia will have received by now.

I have here, Mr. President, a copy of Encore's promotional material. At a quick glance, it appears to be a colorful, glossy brochure advertising a new movie channel. I dare guess most of us would imagine that this is another movie channel that we could opt to add to our regular cable service. There certainly is not much on the cover of the brochure or on the inside fold that would cause us to believe this is an out of the ordinary promotion. If I had not already known about Encore, I do not think I would have been alerted by this little line way down here on the bottom that states, "Inside important information regarding your cable bill and the new Encore optional pay channel." Opening this brochure all the way, you will see a complete listing of all the movies which you will receive for free in the month of June. Not until, and unless, you read all of the text on the bottom half of the brochure will you even realize that you will be billed every month for Encore unless you call this special number to cancel your subscription.

Mr. President, the term "buyer beware" does not even apply to TCI's customers! TCI has figured out a clever way to make money that does not even depend upon its customers deciding to buy its new services. Well, in my view, this is not clever, it is downright deceitful and it must end. Since we obviously cannot rely on TCI and perhaps other cable companies treating their customers fairly, then sadly, we are going to have to rely on Government making it clear that this tactic will not be tolerated.

I understand that several State attorneys general, most particularly including the attorney general of the State of Florida, already have temporary restraining orders against this practice. My successor as attorney general of the State of Washington is in court in that State today seeking such a temporary restraining order.

In addition, however, I am introducing legislation today, which I will offer as an amendment to S. 12, when it comes to the floor for debate in the near future, which will prohibit the negative option and will protect consumers from this type of abusive practice.

TECHNICAL AMENDMENTS TO VARIOUS INDIAN LAWS

INOUYE AMENDMENT NO. 282

Mr. HOLLINGS (for Mr. INOUYE) proposed an amendment to the bill (S. 1193) to make technical amendments to various Indian laws, as follows:

On page 3, strike lines 8 through 21.

On page 3, line 22, delete "4" and insert "3".

On page 4, line 15, delete "5" and insert "4".

On page 4, line 6, delete the word "shall" and insert in lieu thereof the word "may".

On page 2, strike lines 18 through 24 and insert in lieu thereof the following:

"(F) If, during the one-year period described in subparagraph (B) there is a final judicial determination that the gaming described in subparagraph (E) is not legal as a matter of State law, then such gaming on such Indian land shall cease to operate on the date next following the date of such "judicial decision."

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on dairy supply management options on Wednesday, June 19, 1991 from 9:30 to noon and 1:30 to 3 p.m. in SR–332.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 20, 1991, beginning at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following measures currently pending before the subcommittee:

S. 477, a bill to afford congressional recognition of the National Atomic Museum at Kirtland Air Force Base, Albuquerque, NM, as the official atomic museum of the U.S. Government under the aegis of the Department of Energy, and to provide a statutory basis for its betterment, operation, maintenance, and preservation;

S. 628, a bill to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico;

S. 772, a bill to amend title V of Public Law 96–550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes;

S. 855, a bill to amend the act entitled "An act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war";

S. 867, a bill to establish a commission in the Department of the Interior to provide compensation to individuals who lost their land or mining claims to the U.S. Government for the establishment of the White Sands Missile Range; and

S. 1117, a bill to establish the Bureau of Land Management Foundation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224–9863.

Mr. BUMPERS. Mr. President, I would like to announce for the public that two field hearings have been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The first hearing will take place in Honolulu, HI, on July 1, 1991, beginning at 10 a.m. The purpose of the hearing is to consider a proposal to designate the Ka Iwi shoreline on the Island of Oahu as a unit of the National Park System.

The second hearing will take place in Honolulu on July 2, 1991, beginning at 10 a.m. The purpose of the hearing is to examine the operation and status of the U.S.S. *Arizona* Memorial on the 50th anniversary of the attack on Pearl Harbor.

Both hearings will be held in the State Capitol building auditorium in Honolulu.

Because of the limited time available for the hearings, witnesses may testify by invitation only. It will be necessary to place witnesses in panels and place time limits on the oral testimony. Witnesses testifying at the hearings are requested to bring 40 copies of their testimony with them on the day of the hearing. Please do not submit testimony in advance.

Written statements may be submitted for the hearing record. It is necessary only to provide one copy of any material to be submitted for the record. If you would like to submit a statement for the record, you may send it to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, Room 364 of the Dirksen Senate Office Building, Washington, DC 20510, or Senator AKAKA'S district office at P.O. Box 50144, Honolulu, HI 96850.

For further information regarding the hearings, please contact Gladys Karr in Senator AKAKA's Honolulu office at (808) 541–2534 or David Brooks of the subcommittee staff at (202) 224–9863.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 4, 1991, at 3 p.m. and to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, June 4, 1991, at 9:30 a.m. The committee will hold a full committee hearing on GAO's study of the Small Business Administration's 7(a) guaranteed loan program collateral.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, June 4, 1991, at 2 p.m., to receive testimony on the operational use of stealth technology and the use of other classified systems during the Persian Gulf conflict.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BERNARD AND HELEN SADOWSKI WED 50 YEARS

• Mr. SIMON. Mr. President, on June 16, 1941, some very good friends of mine, Bernard and Helen Sadowski, were married at Five Holy Martyrs Church in Chicago. Fifty years later, they are celebrating their golden anniversary. Today I would like to honor Bernard and Helen for their love and devotion to each other and their family.

Bernard served the city of Chicago as a firefighter from 1943 until 1981 when he retired with the rank of deputy district commander. From 1972 until 1976, Bernard honorably served Illinois as the State fire marshal. Furthermore, Bernard has diligently contributed to my staff as a liaison to the Polish community in Illinois. His work has been invaluable.

Helen and Bernard have been blessed with a large family. Their daughter, Linda Hansen, lives in Hoffman Estates, and their son, Ronald Sadowski, and daughter-in-law, Dr. Vickyann Sadowski, live in Wheaton. They have five grandchildren: Daniel, Lisa, Laura, and Lindsey Hansen, and Ann Victoria Sadowski. The Sadowski family is fortunate to have outstanding role models in Bernard and Helen.

Bernard and Helen serve as an example of dedication and faithfulness to each other, their family, and their country. May God bless Helen and Bernard and give them many more years of happiness.•

OPIC'S FIRST ECOTOURISM AWARD

• Mr. JOHNSTON. Mr. President, today I am pleased to bring to the attention of the Senate a creative, forward-looking incentive program which the Overseas Private Investment Corporation [OPIC] established this year to promote projects in developing countries which are compatible with the countries' natural and cultural environments.

Under the leadership of my good friend and OPIC's current president and chief executive officer, Fred Zeder, OPIC has provided financial guarantees to establish a privately owned and managed environmental investment fund. This fund will invest in private business enterprises which demonstrate positive interaction between profitable economic development and protection of the environment. Each investment made will be subject to OPIC's prior approval and monitoring of environmental impacts. In addition, those foreign enterprises in which the fund invests will be required to have a business connection with at least one U.S. corporation.

This fund will provide a showcase of projects which demonstrate the financial viability of investing in environmentally beneficial, sound projects in the developing world. Projects will be concentrated in five areas: sustainable agriculture, forest management, ecotourism, renewable and alternative energy, and pollution prevention and abatement technologies. These are all critically important areas for these nations, and the fund will demonstrate to other private investors that environmental care can improve the viability of projects in the Third World.

One of the most creative examples of what the fund hopes to support in the future is a pioneering project undertaken by two very creative U.S. investors on the island of Pohnpei, one of the four states which comprise the Federated States of Micronesia. This project, the Village Hotel, was the brainchild of Bob and Patti Arthur, who are the first recipients of OPIC's Ecotourism Award. I had the pleasure of meeting the Arthurs and staying at the village several years ago. I can tell you that this project is one of the more sensitively designed, well run, and forward-looking projects that I have seen. The thatched IHMW's—or living units—in which the guests lucky enough to get a reservation stay were planted between trees to take advantge of the natural ventilation and one is lulled to sleep at night in between the sounds of coconuts dropping to the ground. Much of the grounds have been left in their natural jungle-like state, affording guests privacy and the experience this gives with the astounding beauty of this high volcanic island. The driveway into the hotel is not paved, but was given only a coral surface. And the long house, or building which contains the dining facilities, bar, and check-in, was situated overlooking the fabulous lagoon with the lagoon side left open so the guests can have an undisturbed view of the amazing sunrises and sunsets. Bob says the hotel was designed "as a kind of living sculpture" and he is right.

But as important, Bob and Patti have made every effort to preserve the local culture—sponsoring cultural shows in which everyone participates, exhibiting local handicrafts, organizing small and informative boat trips to the incredible Nan Madol ruins, and encouraging their Micronesian employees to talk with the guests so that visitors have a chance to interact with them and get to know something about Pohnpei and the wholehearted hospitality of the Pohnpeian culture.

They have also made every attempt to provide spinoff affects into the local economy—encouraging farmers to make the village a regular stop for selling locally grown produce and fruits, purchasing mangrove crabs and other local catches from fishermen and incorporating these into their five-star menu.

Bob and Patti have shown how sensitively designed projects can have a positive impact on the cultural and economic environment while still making a profit. No one could be more deserving of this award than the Arthurs and I hope their work and contributions will stand as a goal for others in other places around the world.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327.0 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 3, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1991 and is current through May 24, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of Public Law 101-508). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the budget.

Since my last report, dated May 20, 1991, there has been no action that affects the current level of spending and revenues.

Sincerely,

ROBERT D. REISCHAUER.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONGRESS, 1ST SESS., AS OF MAY 24, 1991

[In billions of dollars]

	Revised on-budget aggregates[1]	Current level[2]	Current level +/− aggregates
ON-BUDGET			
Budget authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−0.4
Revenues:			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−0.4
Direct loan obligation	20.9	20.6	−0.3
Guaranteed loan commitments	107.2	106.9	−0.3
Debt subject to limit	4,145.0	3,397.1	−747.9
OFF-BUDGET			
Social Security outlays:			
1991	234.2	234.2	
1991–95	1,284.4	1,284.4	
Social Security revenues:			
1991	303.1	303.1	
1991–95	1,736.3	1,736.3	

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (Title XIII of Public Law 101-508).

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101-508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $0.1 billion in budget authority and $0.2 billion in outlays for debt forgiveness for Egypt and Poland; and $0.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the Committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101-508), and revenues include the Office of Management and Budget's estimate of $3.0 billion for the Internal Revenue Service provision in the Treasury-Postal Service Appropriations Bill (Public Law 101-509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONGRESS, 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS MAY 24, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			834,910
Permanent appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONGRESS, 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS MAY 24, 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
II. Enacted this session:			
Extending IRS Deadline for Desert Storm Troops (H.R. 4, Public Law 102–2)			−1
Veterans' Education, Employment and Training Amendments (H.R. 180, Public Law 102–16)	2	2	
Dire Emergency Supplemental Appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher Education Technical Amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB Domestic Discretionary Sequester	−2	−1	
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by Committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

Note.—Numbers may not add due to rounding.●

TRIBUTE TO HOWARD AND ENID CUTLER

● Mr. MURKOWSKI. Mr. President, I rise today to pay tribute to Howard and Enid Cutler. The Cutlers have spent 20 years in the State of Alaska and have made major contributions to the University of Alaska Fairbanks and the community of Fairbanks.

Howard Cutler first came to Alaska to serve as academic vice president of the University of Alaska system in 1962. After 4 years, he left the State but returned again in 1975 when he was named the first chancellor of the University of Alaska Fairbanks. During Dr. Cutler's years of service as its first chancellor, UAF experienced dramatic growth and expanded its horizons developing ties and exchanges with other Pacific rim universities. As the first chancellor, Howard Cutler had to organize the chancellor function and implement the new UAF organizational structure. Early in his term, he insisted on increased faculty leadership in academic affairs. The board of regents named Howard Cutler to the first regents professorship, and he served as regents professor of economics from 1981 to 1983 when he retired from the university.

Particularly sensitive to the social responsibilities of Dr. Cutler's office, Enid and Howard spent a great deal of time developing positive community relations, gaining the respect, and support of the community for the Fairbanks campus and its programs. The Cutlers personally promoted the goodwill of the university through their very active participation in community affairs. They have remained active in the community, regularly attending, and participating in events throughout the year. Enid Cutler is also a well-known portrait artist.

When Dr. Cutler retired from the university, the Cutlers could have chosen to live anywhere but they decided to retire in Fairbanks, AK. The Cutlers are people of integrity, grace, and charm. Their decision to retire in Fairbanks has been Alaska's gain.

Mr. President, I trust you and this body will join me in commending this outstanding Fairbanks couple who have always put forward a positive attitude about Fairbanks, the University of Alaska Fairbanks, and the great State of Alaska.●

MELANIE LESLIE, WINNER OF THE NATIONAL OUTSTANDING SECONDARY VOCATIONAL EDUCATION STUDENT AWARD

● Mr. SIMON. Mr. President, I would like to commend Melanie Leslie, of Beckemeyer, IL, for receiving the 1991 National Outstanding Secondary Vocational Student Award.

Melanie is a student in the Health Occupations Program at Central High School. While enrolled in this vocational program, she gained enough skill to obtain a nurse assistant position in a local nursing home. According to her teacher, Jan Rittenhouse,

She tends to think of the nursing home residents as her responsibility and not as her job. Since her hiring she has grown to know and love each of "her" residents. * * * She is assertive and caring. Her success is evident as she has been accepted at Illinois State University for the fall of 1991. This student has definite goals for herself and has the ability to pursue her ambitions.

Last year, Melanie and 31 of her fellow health occupation students each raised $4,000 for a trip to the Soviet Union. During her 28-day visit, she visited hospitals, clinics, and cultural sights in Moscow, Leningrad, and Sochi.

Our country needs more students like Melanie Leslie, and I congratulate her on achieving this outstanding honor.●

JOSEPH P. CONNORS JOINS THE EAGLE COURT OF HONOR

● Mr. CHAFEE. Mr. President, during the summer of 1985, a very special 16-year-old young man from East Providence, RI, came to Washington, at my request, and served as a senatorial page. The page program is very challenging to the young people who are selected for it. Usually, it is their first

time away from home. Often the schedule is grueling. The pages quickly learn to recognize the faces of 100 Senators, previously unknown to them, and to make their way with ease through the maze of hallways and tunnels that connect the office buildings and the Capitol. It is no easy job.

All of the young people who serve as senatorial pages are special, but Joe Connors stood out from the rest. He broke new ground in the Senate and stood as an example of what could be accomplished by those who are physically and mentally challenged. Joe was the first individual with a serious disability to serve in the page program, and he served with distinction.

While Joe was in Washington, he became something of a celebrity, giving newspaper interviews and even appearing on the NBC morning news program "The Today Show." But this was not the first time he was recognized for his achievements. Joe was also the recipient of the Special Olympics Gold Medal in the area of the butterfly stroke.

I continue to be impressed by Joe. On June 10 he will join the Eagle Court of Honor. This is an honor bestowed on the Boy Scout who has earned 21 merit badges and is the highest tribute offered by the Scouts. It is no surprise to me that Joe has earned this special recognition.

The Boy Scouts stands as a symbol of patriotism, courage, and self-reliance. Joseph P. Connors epitomizes those ideals. I join Joe's friends and family in applauding his tremendous accomplishments.

I ask that a news article pertaining to this matter appear in the RECORD.

The article follows:

SENATE PAGE WHO SETS AN UNUSUAL EXAMPLE

Together a United States senator and a 16-year-old boy from East Providence have made an eloquent statement.

Sen. John H. Chafee appointed Joseph Connors a senatorial page for three weeks this summer. "I just felt in Joe's case," the senator said, "that it would illustrate to the world the capabilities of people with certain disabilities."

Joseph was born with Down's Syndrome or mongolism, a genetic defect manifested in mental retardation and physical disabilities. Last month he won a gold medal in the Special Olympics at the University of Rhode Island.

When he joined Senator Chafee's staff he gained a new distinction. He became the first person with such disabilities to be appointed a Senate page. He is doing things he's never done before and bearing responsibilities of which some might think him incapable. But he's making it and by his example is telling all of us that handicapped people have potential to live normal lives in the community and make a significant contribution.

When Joe and the senator appeared on NBC's "Today" show Wednesday morning, that message got network coverage. Stories in the print media have spread Joe's story far and wide, bolstering the hope that some day the stigma some still attach to being handicapped will be eliminated. When that day comes, Senator Chafee and Joe Connors will be ushered to the front ranks of those who broke down the barriers and helped to promote understanding and compassion for people who struggle daily to overcome mental or physical handicaps.●

TIANANMEN SQUARE: 2 YEARS LATER

● Mr. SIMON. Mr. President, it has been 2 years since the bloody June 4 incident at Tiananmen Square. The world was horrified by those events and inspired by the valor of the Chinese students. We have not forgotten, and we must not forget.

Our national goal today must be to seek to demonstrate to China the wisdom of change—far-reaching reform. If China is to truly join the world community of nations, it must reform itself in the same way as the formerly Communist nations of Eastern Europe and Mongolia. The blood of Tiananmen Square can never be blotted out or covered over. But a commitment by the Beijing regime to introduce democratic reforms and to cease its persecution of the leaders of the Tiananmen Democracy Movement would start the process of healing and begin the reconciliation between China's leaders and its citizens thirsting for freedom.

By contrast, the Chinese leadership's current path of prosecuting the leaders of the Tiananmen massacre is utterly defenseless. The martyred of Tiananmen Square were not criminals; they should and will be hailed as heroes.

We are now considering one way to express our abhorrence of China's human rights abuses—revoking China's most-favored-nation [MFN] trading status. This action would have a significant economic impact. It would send a clear signal to the Chinese leadership that their reprehensible human rights policies swayed by threats from Beijing that cutting off MFN would wreck United States-China relations; after all, MFN is not a right but a privilege. And there are more than dollars at stake here. I recall asking a black South African worker if he had been hurt by United States sanctions. The man said to me, "Senator, I've been hurting for 47 years. I've got three daughters. I can hurt some more if something is done which will help their lives."

There are a number of proposals currently being debated that would place conditions on the renewal of MFN status. The best solution may be a compromise in which the Chinese are told in clear terms that MFN will be revoked if the Government in Beijing does not improve its behavior in certain areas, including human rights.

Another concern of many of us is the status of Chinese students in the United States. In light of the continued repressive policies of the government in Beijing, it is understandable that many of them would not wish to return at the present time.

As a member of the Judiciary Committee Subcommittee on Immigration and Refugee Affairs, I worked with the leaders of both parties to add significant protections to the legal immigration bill to keep the students involved in the democracy movement who were in the United States supporting their colleagues at Tiananmen Square from being forced to return to certain repression.

In the House of Representatives, Congresswoman NANCY PELOSI stepped forward for the Chinese students. Ultimately, it was her legislation that gained overwhelming support in the House and in the Senate and among freedom loving people everywhere. Although it was vetoed by the President, much of the Pelosi legislation was incorporated into the President's Executive order.

Much work still needs to be done. While the new Immigration Act of 1990 expanded the Hong Kong quota and permitted Hong Kong residents to use their visas at any time through the year 2001, it did not contain long term protections for Chinese students. The Executive order provisions effectively expire on January 1, 1994. Students from the People's Republic of China who do not have permanent status by that time may once again be jeopardized.

That is why I will shortly be joining my friend and colleague Senator SLADE GORTON on legislation to require that the President specifically certify that it is safe for these students to return to China. If no certification is forthcoming, then the students will be able to stay here, first as temporary residents and then as permanent residents.

China's sons and daughters must not be forgotten. We hope that they will be able to return and help shape the political and other institutions of their homeland and carry it forward. But if that is not possible, and indications are that China remains out of step, then we must not let the protocols of diplomacy stand in the way of swift action for humanitarian and freedom's sake. This is an imperative for the cause of freedom and democracy throughout the world.●

ORDERS FOR TOMORROW

Mr. HOLLINGS. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Wednesday, June 5; that following the prayer, the Journal of the proceedings be deemed approved to date; that following the time reserved for the two leaders, there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HOLLINGS. Mr. President, if there be no further business to come before the Senate today—and I see no Senator seeking recognition—I now ask unanimous consent that the Senate stand in recess under the previous order until 9:30 a.m., Wednesday, June 5.

There being no objection, the Senate, at 6:37 p.m., recessed until Wednesday, June 5, 1991, at 9:30 a.m.